EXHIBIT L

ROD M. TOOTHACRE
13742 Indian Peak Trail
Poway, California 92064
(858) 513-0217

April 6, 2006

Internal Revenue Service-Area Director
Attention: Technical Compliance Officer
Post Office Box 30223, Room 3251
Laguna Niguel, California 92067-0223

CERTIFIED - RETURN RECEIPT REQUESTED #7005 1820 0000 5104 5095

Re: Rod M. Toothacre SS# 482-32-[redacted]
Marcia L. Toothacre (Deceased) SS# 546-50-[redacted]

NOTICE OF INTENT TO SUE THE UNITED STATES OF AMERICA

Ladies and Gentlemen:

The purpose of this letter is to provide notice of my intention to sue the United States of America.

26 U.S.C. § 7432. Civil damages for failure to release lien states:

> (a) In general if any officer or employee of the Internal Revenue Service knowingly or by reason of negligence, fails to release a lien under 6325 on property of the taxpayer, such taxpayer may bring a civil action for damages against the United States in a district court of the United States.

26 U.S.C. § 6325. Release of lien or discharge of property provides:

> (a) Release of lien subject to such regulations as the Secretary may prescribe, the Secretary shall issue a certificate of release of any lien imposed with respect to any internal revenue tax not later than 30 days after the day on which - (1) Liability is satisfied or unenforceable The Secretary finds that the liability for the amount assessed, together with all interest in respect thereof, has been fully satisfied or has become legally unenforceable.

The regulations that the Secretary has prescribed are 25 C.F.R. § 301.6325 - Release of lien or discharge of property:

> (a) Release of lien – (1) Liability satisfied or unenforceable. Any district director may issue a certificate of release of a lien imposed with respect to any internal revenue tax, whenever he finds that the entire liability for the tax has...become unenforceable as a matter of law (and not merely uncollectible or unenforceable as a matter of fact).

Internal Revenue Service, Area Director

Re: Rod M. Toothacre SS# [redacted]
Ltr. Dtd. April 6, 2006
Page Two

A review of the history of this fiasco perhaps would be in order.

On **December 12, 2005,** Attorney Joseph S. Carmellino wrote to Ms. A. Martinez, Revenue Officer, advising her that he had been retained by the undersigned to take legal action as necessary to clear the various liens that the IRS was claiming, and to seek compensation for the damages that these wrongful filings had caused his client. A copy of that letter is attached hereto, marked Exhibit "A" and made a part hereof as though set forth at length. That letter pointed out that Ms. A. Martinez had purposefully interfered with a pending refinance escrow by delivering to the escrow holder Notices of Federal taxes due in the total amount of $488,367.37, knowing full well at the time of delivery to escrow by Ms. A. Martinez that some, if not most, of the taxes alleged to be due were uncollectible because the CSEDs had run. Ms. A. Martinez took this action wilfully and with malice. The letter also pointed out that the Notice of Federal Tax Lien for Rodney M. & Marcia L. Toothacre's 1040s for 1993 and 1994 had first been recorded with the San Diego County Recorder's Office on February 4, 1997. It pointed out that those Notices of Federal Tax Liens acted as certificates of release and that the liens were released on June 1, 2005 for tax year 1993 and July 6, 2005 for tax year 1994. In addition to the fact that those liens expired by their own terms, there was also a Certificate of Release of Federal Tax Lien issued by the IRS on August 8, 2005. Ms. A. Martinez maliciously told the escrow officer that the Certificate of Release of Federal Tax Lien was filed in error even though IRC § 63215(f) provides in part as follows:

> Except as provided in paragraphs (2) and (3), if a certificate is issued pursuant to this section by the Secretary and is filed in the same office as the notice of lien to which it relates (if such notice of lien has been filed) such certificate shall have the following effect:
>
> (A) in the case of a certificate of release, such certificate shall be ***conclusive*** that the lien referred to in such certificate is extinguished; (emphasis added)

Mr. Carmellino's letter to Ms. A. Martinez demanded that she take the necessary steps to remedy the 1993 and 1994 tax liens, pointing out that it was crucial that his client's refinance escrow close immediately, stating that "Mr. Toothacre is willing to pay only the following tax years out of the escrow", identifying 1040s for 1995, 1996, 2003, 2004 and 941 for 1996.

On **December 13, 2005,** Mr. Carmellino wrote a follow up letter to Ms. A. Marti[redacted]vising her that he had been furnished a document entitled, **490 Activity Summary - 483-32[redacted]OOT,** which reflected that payments which were being levied out of my Social Security benefits were being applied to 1040 Tax Period 1993/12. It reiterated that the CSED had run on that year and that the benefits being levied should at least be applied to a collectible tax year. That document also establishes that the taxes for 1040 1993 were assessed on **April 4, 1994.** Ms. A. Martinez denies that this document is an IRS document even though it was obtained from the Internal Revenue Service. A copy of Mr. Carmellino's **December 13, 2005** letter is attached hereto, marked Exhibit **"B"** and made a part hereof as though set forth at length

On **December 20, 2005,** Mr. Carmellino wrote Ms. A. Martinez a letter proposing a compromise so that my refinance escrow could close with no further damage being caused by the IRS. We agreed to pay 1995, 1996, 2003 and 2004 1040 taxes and the 1996 941 taxes out of the escrow. We further, at that time, agreed to hold an additional sum of $100,000.00 in an independent trust account pending resolutions of the disputes over the collectability of the taxes we disputed. We also advised her of our intention to appeal the filing of **that particular lien**. A copy of Mr. Carmellino's **December 20, 2005,** letter is attached hereto, marked Exhibit "C" and made a part hereof as though set forth at length.

On **December 22, 2005,** the undersigned prepared a Request for a Collection Due Process Hearing. That Request was sent by Certified Mail, Return Receipt Requested to the Internal Revenue Service on **December 22, 2005,** and the return receipt was dated and signed on **December 23, 2005.** A true and correct copy of that receipt is attached hereto, marked Exhibit **"D"** and made a part hereof as though set forth at length.

The Request for the Collection Due Process Hearing had attached to it various exhibits marked with numbers and a legal brief setting forth the taxpayer contentions. Those contentions were:

> **THE SUBJECT TAXES WERE DISCHARGED BY BANKRUPTCY**
> **THE NOTICE OF FEDERAL TAX LIEN EXPIRED BY ITS OWN TERMS**
> **THE INTERNAL REVENUE SERVICE RELEASED THE LIENS**
> **THE IRS' ATTEMPT TO REFILE LIENS FAILS**
> **THE STATUTE OF LIMITATIONS HAS RUN**
> **THE INTERNAL REVENUE SERVICE HAS ACTED WITH MALICE**

A true and correct copy of the Request for a Collection Due Process Hearing is attached hereto, marked Exhibit **"E"**, along with all of the exhibits, marked 1 through 6, and made a part hereof by this reference as though set forth at length.

On **January 2, 2006,** Mr. Carmellino wrote to Ms. A. Martinez, acknowledging a phone message left by her on his phone on **December 22, 2005,** advising Mr. Carmellino that she would return to her office on **January 3, 2006,** after her Christmas break. He commented that in that phone message she had said that Mr. Toothacre's offer to pay taxes did not even cover all of the taxes due. Mr. Carmellino pointed out that the offer was an offer to pay, **in full** all, taxes, interest and penalties which we believed were collectible by the IRS. That offer was renewed with the qualification that the offer no longer contemplated the withholding of $100,000.00. That letter also advised Ms. A. Martinez that if Mr. Toothacre's escrow did not close, that it was our intention to avail ourselves of the remedies provided by IRC 7433. Mr. Carmellino also advised Ms. A. Martinez that his client had "now received from the IRS a Final Notice Before Levy on Social Security Benefits." This Notice of Levy states that it is an attempt to collect 1040 taxes for tax year 2004. Mr. Carmellino informed Ms. A. Martinez that Mr. Toothacre acknowledges those taxes were due and owing. Mr. Carmellino reminded Ms. A. Martinez that the IRS was already levying on Mr. Toothacre's Social Security Benefits and applying them to tax year 1993, and demanded that the IRS reverse those collections and apply them to tax year 2004. Mr. Carmellino's letter to Ms. A. Martinez also pointed out that the efforts by the IRS to renew the lien for the 1993 taxes had not followed the procedures set forth in the Internal Revenue Code, citing Section 6325 (f) (2), 6325 (f) (2) (A) and 6325 (f) (2) (B). A true and correct copy of Mr. Carmellino's letter dated **January 3, 2006,** marked Exhibit "F", is attached hereto and made a part hereof by this reference as if set forth at length..

On **January 18, 2006,** Mr. Carmellino wrote a letter to Ms. A. Martinez and asked that the letter be appended to his client's appeal, previously filed through her office. That letter, among other things, stated: ***"Once again demand is made that the internal revenue service release the purported notice of federal tax liens for the years 1040 93, and 1040 94 filed on December 2, 2005. This is an opportunity for the Government to mitigate the damages being incurred by Mr. Toothacre."*** That letter went on to discuss at length the Internal Revenue Manual concerning the CQMS providing that the Taxpayer is entitled to fair and courteous treatment. Mr. Carmellino reminded Ms. A. Martinez that she had indicated to him that the filing of a bankruptcy caused six months to be tacked on at the end of the 10-year period but he reminded her also that she surely must have been aware that this had not been true since the Supreme Court of the United States decided *Young v. United States, 122 S.Ct. 1036* and the issuance of Notice CC-2002-023 by the Office of Chief Counsel of the Internal Revenue Service. He advised her that *"it is now settled law that a bankruptcy may toll the collection statute of limitations for the full period of the bankruptcy, but for no additional period."* Mr. Carmellino's letter also discussed the effect of R.R.A. §3461 and IRC §§ 6501(c) and 6502(a). He pointed out that ***"Any extension of the collections statute already in effect on December 31, 1999, expired on December 31, 2002."*** Mr. Carmellino pointed out that the literature makes it clear that the IRS not uncommonly tries to collect taxes after the statute of limitations has expired, and that this abuse was addressed by Congress in part as noted in his letter. The final paragraph of Mr. Carmellino's letter reads as follows.

> The Internal Revenue Manual Section 5.12.6.5.1 (10-01-2003) Certificate of Release provides at number 7. ***Issue a certificate of release if the collection statute has expired, and the taxpayer requests a release.*** (Emphasis added) If it has not previously been made clear, Mr. Toothacre does hereby request that certificates of release be issued immediately for tax years 1040 93 and 1040 94.

A true and correct copy of Mr. Carmellino's letter of **January 18, 2005,** is attached hereto, marked Exhibit "G" and made a part hereof by this reference as if set forth at length.

On **January 19, 2006,** Mr. Carmellino wrote a letter to Ms. A. Martinez, in which he advised her that in reviewing The Daily Transcript he discovered that, on **December 21, 2005,** the IRS caused to be recorded two Notices of Federal Tax Liens against Toothacre & Pedestrian. (Sic) Neither Mr. Pederson nor Mr. Toothacre received any notice whatsoever of this action by the IRS. Ms. A. Martinez had previously been furnished with the Certificates of Release of Federal Tax Liens by Mr. Toothacre. The last day for filing either of those documents was in 1992. His letter stated: ***"It is patently obvious that the refiling of these liens is malicious and an obvious attempt by the Service to bully my client and destroy his life. All of this in violation of your own Manual and the Taxpayer Bill of Rights. Mr. Toothacre is trying to pay those taxes which are due, and collectible, and you are making every effort to thwart his attempts."***

DEMAND IS HEREBY MADE THAT THESE LIENS BE IMMEDIATELY RELEASED

A copy of Mr. Carmellino's **January 19, 2005** letter, together with its attachments, is attached hereto marked Exhibit "H" and by this reference made a part hereof as though set forth at length.

On **February 7, 2006,** Mr. Carmellino wrote a letter to Ms. A. Martinez advising her that on **December 22, 2005,** Mr. Toothacre had filed a Request For A Collection Due Process Hearing (Form 12153) with her office and that to the date of the letter he had received no response concerning this request. He asked if a hearing date had been set for the Hearing and if so to please notify either him or Mr. Toothacre. He specifically requested a written response to those questions. Mr. Carmellino also advised Ms. A. Martinez that Mr. Toothacre intended to arrange, at his own expense, for a Certified Court Reported to be present at his Collection Due Process Hearing to make a stenographic record of those proceedings. Mr. Carmellino has received no written reply to those questions. Mr. Carmellino's letter of **February 7, 2006** is attached hereto, marked Exhibit "I" and made a part hereof by this reference as though set forth at length.

On or about **December 20, 2005,** the undersigned received by certified mail from the Internal Revenue Service in Cincinnati, Ohio a Final Notice Before Levy On Social Security Benefits. The IRS as indicated above had already been levying on my Social Security Benefits and applying those payments to tax year 1993, which had become unenforceable. We requested that, at least, the funds levied from my Social Security be applied to tax year 2004. A copy of the Final Notice Before Levy On Social Security Benefits, together with the attached Account Information indicating tax year 1040 for 2004, is attached hereto marked Exhibit "J" and made a part hereof by this reference as though set forth at length.

The most recent activity taken by Ms. A. Martinez is a letter dated **March 31, 2006,** advising that if full payment is not received for the payment of taxes reflected on an attached sheet by **April 10, 2006,** that a Notice of Federal Tax Lien will be filed for the tax years 2003 and 2004. The taxes listed on the attachment are the very taxes that I wanted to pay out of the proceeds of the refinance escrow, offers which Ms. A. Martinez completely ignored for months. It is interesting to note that this letter is not computer generated. A true and correct copy of Ms. A. Martinez' letter of **March 31, 2006,** together with its envelopes and attachment are attached hereto, marked Exhibit **"K"** and made a part hereof by this reference as though set forth at length.

To date, without much success, we have filed two requests for documents under the Freedom of Information Act. In response to our first request we did receive, among other things, the IMF relating to my tax account. We have retained the services of a forensic accountant to assist us in decoding the IMF along with various documents. In response to our second request we were told that the Form 23C has been replaced. In any event we are in the process of filing our third FOIA request and for your information a copy of that request is attached hereto marked Exhibit "L" and made a part hereof by this reference as though set forth at length.

As indicated at the beginning of this letter the primary purpose is to properly serve notice on the United States of America of my intent to sue for all damages incurred, including but not necessarily limited to compensatory damages and general damages for emotional distress. This notice is pursuant to IRC § 7432. As noted above, repeated requests and demands have been made to the IRS to remove the wrongful liens and not only has the IRS failed and refused to remove the illegal liens, it has virtually refused to answer any of the taxpayer's, or his representative's, correspondence at all. We are still waiting for acknowledgment of the filing of our Request for CDP hearing. If for any reason this letter fails to meet the requirements of notice to the government, please advise the undersigned.

As reflected below a copy of this letter is being sent to Ms. A. Martinez, ID Number 33-07811, with the specific direction that it be added to my Collection Due Process Hearing file or files.

Very truly yours

Rod M. Toothacre

Rod M. Toothacre

RMT:jts
Enclosures
cc: Ms. A. Martinez, Internal Revenue Service
Joseph S. Carmellino, Esq.

EXHIBIT "A"

JOSEPH S. CARMELLINO
ATTORNEY AT LAW
CARMEL VALLEY CENTRE I
11975 EL CAMINO REAL
SUITE 203
SAN DIEGO, CALIFORNIA 92130
TELEPHONE (858) 622-8377
FAX (858) 350-0233
eMail joseph@carmellinolaw.com

December 12, 2005

Ms. A. Martinez, Revenue Officer 33-07811
INTERNAL REVENUE SERVICE
880 Front Street, Room 3293
San Diego, California 92101

Via Fax Only
619.615.3722

Re: Rodney M. Toothacre, SS# 482 32[redacted]

Dear Ms. Martinez:

Mr. Toothacre has retained this office to take legal action as necessary to clear the various liens IRS is claiming, and to seek compensation for the damage these wrongful filings have caused him. It is clear that your actions are no more than an illegal attempt to interfere with Mr. Toothacre's refinance escrow, and therefore constitute abuse of process and extortion.

According to information generated by Mr. Toothacre's title company and escrow department, you have recorded a Notice of Federal Tax Lien for Rodney M. & Marcia L. Toothacre's 1040s for 1993 and 1994; and delivered to Natalie Drosi-Escrow Officer, Notices of Federal Taxes Due in the total amount of $488,367.37. Some of these taxes providing the basis for this lien are uncollectible as time-barred, and you are aware of this fact.

The original Notice of Federal Tax Lien for 1993 and 1994 was recorded in the office of the San Diego County Recorder's Office on February 4, 1997. That document, **on it's face**, contains the following statement:

> **IMPORTANT RELEASE INFORMATION:**
> For each assessment listed below, unless notice of the lien is refiled by the date given in column (e), this notice shall, on the day following such date, operate as **a certificate of release as defined in IRC 6325 (a).** (Emphasis added)

Accordingly the Notice of Federal Tax Lien acted as a certificate of release, and the liens were released on June 1, 2005 for 1993 and July 6, 2005 for 1994. In addition to the fact that the lien(s) expired by its own terms, there was also a Certificate of Release of Federal Tax Lien issued by the IRS on August 8, 2005. That Certificate of Release was signed by the Director, Payment Compliance. You have told the escrow officer that the Certificate of Release of Federal Tax lien was filed in error. However, as I am sure you must be aware, IRC $6325(f) provides in part as follows:

A. Martinez/IRS
Ltr. Dtd. December 12, 2005
Re: Tax Lien(s)

Page 2

> Except as provided in paragraphs (2) and (3), if a certificate is issued pursuant to this section by the Secretary and is filed in the same office as the notice of lien to which it relates (if such notice of lien has been filed) such certificate shall have the following effect: (A) in the case of a certificate of release, such certificate shall be conclusive that the lien referred to in such certificate is extinguished; (emphasis added)

Demand is hereby made that you take the necessary steps to remedy the 1993 and 1994 tax liens. It is crucial that Mr. Toothacre's escrow close immediately, and to that end Mr. Toothacre is willing to pay only the following tax years out of the escrow:

Kind of Tax	Tax Year	Assessment Date	Amount at Assessment
1040	1995	November 24, 1997	$ 27,533.65
1040	1996	November 24, 1997	$ 12,684.56
1040	2003	November 8, 2004	$ 17,651.12
1040	2004	May 30, 2005	$ 16,476.45
941	1996	December 9, 1996	$ 14.00

Sincerely,

Joseph S. Carmellino

JSC:dlb

cc:

R. M. Toothacre, Esq.

Ms. Adams, Taxpayer's Advocate
c/o Internal Revenue Service
24000 Avila Road, Room 3401 M/S 4003
Case File No. 3536399

Natalie Drosi, Fidelity National Title (Via Fax 858.457.2390)

EXHIBIT "B"

JOSEPH S. CARMELLINO
ATTORNEY AT LAW

CARMEL VALLEY CENTRE I
11975 EL CAMINO REAL
SUITE 203
SAN DIEGO, CALIFORNIA 92130
TELEPHONE (858) 622-8377
FAX (858) 350-0233
eMail joseph@carmellinolaw.com

December 13, 2005

Ms. A. Martinez, Revenue Officer 33-07811
INTERNAL REVENUE SERVICE
880 Front Street, Room 3293
San Diego, California 92101

Via Fax Only
619.615.3722

Re: Rodney M. Toothacre, SS# 482 32[redacted]

Dear Ms. Martinez:

This letter is a follow-up to my letter yesterday concerning my client Rodney M. Toothacre, the taxpayer identified above. Mr. Toothacre informs me that the Internal Revenue Service has been levying on his Social Security benefits. The fact that the funds levied upon have been applied to Mr. Toothacre's 1993, 1040 taxes, taxes which are **uncollectible**, is illegal and unconscionable.

I have [redacted] provided with a document entitled, **490 Activity Summary - 483-32-[redacted]TOOT** for Rodney M. & Marcia L. Toothacre for 1040 Tax Period 1993/12. (Incidentally, that document states that the 1993, 1040 taxes were assessed on **April 4, 1994**.) The document reflects that $187.50 per month was credited to the 1993 taxes on three occasions, and that $191.10 was credited to the 1993 taxes on four occasions. I am told that recent Social Security benefits of Mr. Toothacre have been levied but we have no documentation indicating where those amounts were credited.

Adjustments must be made to apply any and all amounts taken from Mr. Toothacre's Social Security to taxes that are collectible. Please contact me to correct the levy account, and so that we can also make arrangements for Mr. Toothacre's refinance escrow to close without further interference from IRS.

Sincerely,

Joseph S. Carmellino

JSC:dlb

A. Martinez/IRS
Ltr. Dtd. December 13, 2005
Re: Tax Lien(s)

Page 2

cc:

R. M. Toothacre, Esq.

Ms. Adams, Taxpayer's Advocate
c/o Internal Revenue Service
24000 Avila Road, Room 3401 M/S 4003
Case File No. 3536399

Natalie Drosi, Fidelity National Title (Via Fax 858.457.2390)

EXHIBIT "C"

JOSEPH S. CARMELLINO
ATTORNEY AT LAW
CARMEL VALLEY CENTRE I
11975 EL CAMINO REAL
SUITE 203
SAN DIEGO, CALIFORNIA 92130
TELEPHONE (858) 822-8377
FAX (858) 350-0233
eMail joseph@carmellinolaw.com

December 20, 2005

Ms. A. Martinez, Revenue Officer 33-07811
INTERNAL REVENUE SERVICE
880 Front Street, Room 3293
San Diego, California 92101

Via Fax Only
619.615.3722

Re: Rodney M. Toothacre, SS# 482 32[redacted]

Dear Ms. Martinez:

The purpose of this letter is to again propose a compromise so that Mr. Toothacre's refinance escrow can close with no further damage being caused by the Internal Revenue Service. Mr. Toothacre will agree that the escrow holder may pay to the Internal Revenue Services the taxes, interest and penalties which are due and payable in connection with the tax years specified in my letter to you of December 12, 2005; I have not had the courtesy of a reply to that letter, nor have you seen fit to return my telephone calls. To refresh your recollection, the offer is payment of **ONLY**:

Kind of Tax	Tax Year	Assessment Date	Amount at Assessment
1040	1995	November 24, 1997	$ 27,533.65
1040	1996	November 24, 1997	$ 12,684.56
1040	2003	November 8, 2004	$ 17,651.12
1040	2004	May 30, 2005	$ 16,476.45
941	1996	December 9, 1996	$ 14.00

Additionally, Mr. Toothacre would agree that the additional sum of $100,000.00 could be held in an independent trust account pending resolution of the dispute over the collectability of taxes as disputed by Mr. Toothacre.

It is our intention to appeal the filing of this lien. We are in the process of preparing that application, and requesting a copy of Mr. Toothacre's Individual Master File.

A. Martinez/IRS
Ltr. Dtd. December 20, 2005
Re: Tax Lien(s)

Page 2

Please contact me so that we can make arrangements for payment, and for Mr. Toothacre's refinance escrow to close without further interference from the IRS.

Sincerely,

Joseph S. Carmellino

JSC:dlb

cc:

R. M. Toothacre, Esq.

Ms. Buford, Taxpayer's Advocate (Via Fax 949.389.5033
Case File No. 3536399

Natalie Drosi, Fidelity National Title (Via Fax 858.457.2390)

EXHIBIT "D"

Department of the Treasury
Internal Revenue Service
145585 STOP 8420G
NNATI, OH 45250-5585

CERTIFIED MAIL

7178 2665 9394 6124 4132

Letter Date: 12/13/2005
Taxpayer Identification Number:
482-32-[redacted]
Contact Person:
A. MARTINEZ
Employee Identification Number:
33-07811
Contact Telephone Number:
(619) 615-9550

RODNEY M & MARCIA L TOOTHACRE
13742 INDIAN PEAK TRL
POWAY, CA 92064-3056

178

Notice of Federal Tax Lien Filing and Your Right to a Hearing Under IRC 6320

We filed a Notice of Federal Tax Lien on 12/06/2005

Type of Tax | Tax Period | Amount Owed

7005 1820 0000 5104 5064

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

SAN DIEGO CA 92101

Postage	$ ~~$1.52~~
Certified Fee	$2.30
Return Receipt Fee (Endorsement Required)	$1.75
Restricted Delivery Fee (Endorsement Required)	$0.00
Total Postage & Fees	$ $5.57

Postmark Here: 0064 03 DEC 22 2005
12/22/2005

Sent To: IRS
Street, Apt. No.; or PO Box No.: 880 Front St Rm 3295
City, State, ZIP+4: San Diego, CA 92101

PS Form 3800, June 2002 — See Reverse for Instructions

Certified Label #: 70051820000051045064
$2.30
========
$5.57
Issue PVI:
Total: $10.12
Paid by:
Cash $11.00
Change Due: -$0.88
Bill#: 1000502771263
Clerk: 03

— All sales final on stamps and postage.
Refunds for guaranteed services only.
Thank you for your business.
Customer Copy —

...e future. It also
...ppeal this collection action and to discuss your payment method
...collection appeal procedures available to you, we've enclosed Publication 1660,
...quest for a Collection Due Process

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
Internal Revenue Service
880 Front St
Room 3295
San Diego, CA
92101

2. Article Number (Transfer from service label): 7005 1820 0000 5104 5064

PS Form 3811, February 2004

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X [signature] ☐ Agent ☐ Addressee

B. Received by (Printed Name): [handwritten]
C. Date of Delivery: 12-23-05

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

...you pay the full amount owed.
...number appear at the top of this letter.

EXHIBIT "E"

Request for a Collection Due Process Hearing

Use this form to request a hearing with the IRS Office of Appeals only when you receive a **Notice of Federal Tax Lien Filing & Your Right To A Hearing Under IRC 6320**, a **Final Notice - Notice Of Intent to Levy & Your Notice Of a Right To A Hearing**, or a **Notice of Jeopardy Levy and Right of Appeal**. Complete this form and send it to the address shown on your lien or levy notice for expeditious handling. Include a copy of your lien or levy notice(s) to ensure proper handling of your request.

(Print) Taxpayer Name(s): RODNEY M. TOOTHACRE (MARCIA L. TOOTHACRE, DECEASED)

(Print) Address: 13742 INDIAN PEAK TRAIL POWAY, CA 92064

Daytime Telephone Number: (858)513-0217 Type of Tax/Tax Form Number(s): 1040

Taxable Period(s): 1993 & 1994

Social Security Number/Employer Identification Number(s): 482-3[redacted]

Check the IRS action(s) that you do not agree with. Provide specific reasons why you don't agree. If you believe that your spouse or former spouse should be responsible for all or a portion of the tax liability from your tax return, check here [__] and attach Form 8857, Request for Innocent Spouse Relief, to this request.

X **Filed Notice of Federal Tax Lien (Explain why you don't agree. Use extra sheets if necessary.)**
PLEASE SEE THE ATTACHED BRIEF WITH EXHIBITS

___ **Notice of Levy/Seizure (Explain why you don't agree. Use extra sheets if necessary.)**

I/we understand that the statutory period of limitations for collection is suspended during the Collection Due Process Hearing and any subsequent judicial review.

Taxpayer's or Authorized Representative's Signature and Date: Rodney M Toothacre 12/22/05

Taxpayer's or Authorized Representative's Signature and Date: __________

IRS Use Only:

IRS Employee *(Print)*: __________ IRS Received Date: __________

Employee Telephone Number: __________

IRS Department of the Treasury
Internal Revenue Service
PO BOX 145585 STOP 8420G
CINCINNATI, OH 45250-5585

CERTIFIED MAIL

7178 2665 9394 6124 4132

Letter Date: 12/13/2005
Taxpayer Identification Number:
482-32[redacted]
Contact Person:
A. MARTINEZ
Employee Identification Number:
33-07811
Contact Telephone Number:
(619) 615-9550

RODNEY M & MARCIA L TOOTHACRE
13742 INDIAN PEAK TRL
POWAY, CA 92064-3056

001478

Notice of Federal Tax Lien Filing and Your Right to a Hearing Under IRC 6320

We filed a Notice of Federal Tax Lien on 12/06/2005

Type of Tax	Tax Period	Amount Owed
1040	12/31/1993	112762.37
1040	12/31/1994	9967.68

The lien attaches to all the property you currently own and to all property you may acquire in the future. It also may damage your credit rating and hinder your ability to obtain additional credit.

You have a right to request a hearing with us to appeal this collection action and to discuss your payment method options. To explain the different collection appeal procedures available to you, we've enclosed Publication 1660, *Collection Appeal Rights*.

If you want to request a hearing, please complete the enclosed form 12153, *Request for a Collection Due Process Hearing*, and mail it to:

Internal Revenue Service
880 FRONT STREET
ROOM 3295
SAN DIEGO, CA 92101

You must request your hearing by 01/12/2006.

We'll issue a Certificate of Release of the Federal Tax Lien within 30 days after you pay the full amount owed. To get the current amount owed, contact the person whose name and telephone number appear at the top of this letter.

(over)

Form 668 (Y)(c)
(Rev. February 2004)

1872

Department of the Treasury - Internal Revenue Service

Notice of Federal Tax Lien

Area:
SMALL BUSINESS/SELF EMPLOYED AREA #14
(800) 913-6050

Serial Number
262430605

For Optional Use by Recording Office

As provided by section 6321, 6322, and 6323 of the Internal Revenue Code, we are giving a notice that taxes (including interest and penalties) have been assessed against the following-named taxpayer. We have made a demand for payment of this liability, but it remains unpaid. Therefore, there is a lien in favor of the United States on all property and rights to property belonging to this taxpayer for the amount of these taxes, and additional penalties, interest, and costs that may accrue.

- This Notice of Federal Tax Lien has been filed as a matter of public record.
- IRS will continue to charge penalty and interest until you satisfy the amount you owe.
- Contact the Area Office Collection Function for information on the amount you must pay before we can release this lien.
- See the back of this page for an explanation of your Administrative Appeal rights.

Name of Taxpayer
RODNEY M & MARCIA L TOOTHACRE

01478

Residence
13742 INDIAN PEAK TRL
POWAY, CA 92064-3056

IMPORTANT RELEASE INFORMATION: For each assessment listed below, unless notice of the lien is refiled by the date given in column (e), this notice shall, on the day following such date, operate as a certificate of release as defined in IRC 6325(a).

Kind of Tax (a)	Tax Period Ending (b)	Identifying Number (c)	Date of Assessment (d)	Last Day for Refiling (e)	Unpaid Balance of Assessment (f)
1040	12/31/1993	482-32[redacted]	05/01/1995	N/A	112762.37
1040	12/31/1994	482-32[redacted]	06/05/1995	N/A	9967.68

Place of Filing
COUNTY RECORDER
SAN DIEGO COUNTY
SAN DIEGO, CA 92101

Total 122730.05

This notice was prepared and signed at LAGUNA NIGUEL, CA, on this, the 02nd day of December, 2005.

Signature
Susan A. Hansen
for A. MARTINEZ

Title
REVENUE OFFICER
(619) 615-9550

34-06-3105

(NOTE: Certificate of officer authorized by law to take acknowledgment is not essential to the validity of Notice of Federal Tax Lien
Rev. Rul. 71-466, 1971 - 2 C.B. 409)

Part 2 - T

THE SUBJECT TAXES WERE DISCHARGED BY BANKRUPTCY

The taxpayers, Rodney M. Toothacre and Marcia L. Toothacre, filed a voluntary petition in bankruptcy on September 8, 1995. Listed on **SCHEDULE E - CREDITORS HOLDING UNSECURED PRIORITY CLAIMS** was the Internal Revenue Service reflecting 1993 and 1994 taxes in the total amount of $326,965.00. On January 16, 1996, Judge Hargrove issued a Discharge of Debtor which, among other things states: *1. The above-named debtor is released from all dischargeable debts.* The Certificate of Service which accompanied the Discharge of Debtor reflects the address of the Internal Revenue Service, for service purposes, to be: Internal Revenue Service, 880 Front Street, San Diego, CA 92101. A true, correct and accurate copy of the documents referred to above is marked as Exhibit #1, and made a part hereof by this reference. Accordingly, the taxpayer contends that the 1993 and 1994 1040 taxes were discharged by order of the bankruptcy court.

THE NOTICE OF FEDERAL TAX LIEN EXPIRED BY ITS OWN TERMS

The original Notice of Federal Tax Lien, dated January 30, 1997 and recorded in the records of the San Diego County Recorder's Office on February 4, 1997, contains on its fact the following information.

> **IMPORTANT RELEASE INFORMATION:** For each assessment listed below, unless a notice of the lien is refiled by the date given in column (e), this notice shall, the day following such date, operate as a certificate of release as defined in IRC 6325(a).

Accordingly the Notice of Federal Tax Lien on May 31, 2005 and on July 5, 2005 became a certificate of release and released the liens claimed. A true, correct and accurate copy of the original Notice of Federal Tax Lien is attached hereto, marked Exhibit #2, and made a part hereof by this reference.

THE INTERNAL REVENUE SERVICE RELEASED THE LIEN

In addition to the fact that the lien(s) expired by its (their) own terms, there was also a Certificate of Release of Federal Tax Lien issued by the Internal Revenue Service on August 8, 2005. That Certificate of Release of Tax Lien was signed by the Director, Payment Compliance. A true, accurate and correct copy of that Certificate of Release of Federal Tax Lien is attached hereto, marked Exhibit #3 and made a part hereof by this reference. Internal Revenue Code §6325 (f) provides in part as follows:

> Except as provided in paragraphs (2) and (3), if a certificate is issued pursuant to this section by the Secretary and is filed in the same office as the notice of lien to which it relates (if such notice of lien has been filed) such certificate shall have the following effect:
>
> (A) in the case of a certificate of release, such certificate shall be **conclusive** that the lien referred to in such certificate is extinguished; (emphasis added)

THE IRS' ATTEMPT TO REFILE LIENS FAILS

In an attempt to salvage her CSED (Collection Statute Expiration Date) the Revenue Agent caused to be issued a new Notice of Federal Tax Lien. That Notice was prepared and dated December 2, 2005, and was recorded in the San Diego County Recorders Office on December 5, 2005. The law requires that the IRS notify the taxpayer in writing **not more** than 5 business days after the filing of a lien. The notice may be given in person, left at the taxpayer's home or usual place of business or sent by certified or registered mail to the taxpayer's last known address. In this case the Notice of Lien is dated December 2, 2005 and was recorded with the San Diego County Recorder on December 5, 2005. The taxpayer was not notified until December 17, 2005 when he found a notice of certified mail in his mail box. The taxpayer actually received the certified mail on December 19, 2005. Attached hereto, marked Exhibit #4 is a Notice of Federal Tax Lien Filing and Your Right to a Hearing Under IRC §6320. That Notice clearly is dated December 13, 2005, and therefore, the taxpayer was not notified within 5 business days from the filing of the Federal Tax Lien.

THE STATUTE OF LIMITATIONS HAS RUN

Section 6502 of the Internal Revenue Code provides, in part, as follows:

Section 6502. Collection after assessment

(A) Length of period.

> Where the assessment of any tax imposed by this title has been made within the period of limitation properly applicable thereto, such tax may be collected by levy or by a proceeding in court, **but only if the levy is made or the proceeding** begun–(emphasis added)
>
> (1) within 10 years after the assessment of the tax, or
>
> (2) if–
>
> (A) there is an installment agreement between the taxpayer and the

> Secretary, prior to the date which is 90 days after the expiration of any period for collection agreed upon in writing by the Secretary and the taxpayer at the time the installment agreement was entered into; or
>
> (B) there is a release of levy under section 6343 after such 10 year period, prior the expiration of any period for collection agreed upon in writing by the Secretary and the taxpayer before such release.

The Internal Revenue Service has consistently taken the position that the Date of Assessment of the 1993 taxes was 5/31/95 and that the Date of Assessment of the 1994 taxes was 06/05/95. They have numerous documents indicating that to be true. See Exhibit #2, for instance. However, taxpayer has in his possession an Internal Revenue Document entitled **490 Activity Summary - 482-32**[redacted]ODNEY M & MARCIA L TOOTHACRE 1040 Tax Period: 1993/12. **482-32**[redacted]ed - A true, correct and accurate copy of that document is attached hereto, marked Exhibit # 5 and made a part hereof by this reference. A review of that document reveals that at two different places under date of 4/15/1994, it is stated that the return is filed and the tax is assessed. In either event it is clear that 10 years have run without a proceeding in court to collect the taxes or a levy having been made. The 1993 and 1994 taxes are no longer collectible. The IRS **must** abate the tax and release any liens filed against the taxpayer's property.

THE INTERNAL REVENUE SERVICE HAS ACTED WITH MALICE

Taxpayer Rod M. Toothacre has an escrow open to handle the refinancing of his residence. Ms. Martinez, the Revenue Agent, has maliciously taken steps to prevent that escrow from closing and preventing the United States Government from receiving unpaid taxes that are actually due and owing. The Agent filed with Ms. Natali Drosi, the escrow officer at National Title, two documents entitled **Notice of Federal Taxes Due**. Both notices were dated December 5, 2005. One reflects that there is due and owing the amount of **FOUR HUNDRED NINE THOUSAND SEVEN HUNDRED THIRTY TWO DOLLARS.** The other notice reflects that there is **SEVENTY SIX THOUSAND FIVE HUNDRED THIRTY FOUR DOLLARS AND 44/100** due and owing. Ms. Martinez sent these documents to the escrow knowing full well that the statute of limitations had run on most of the

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alleged taxes due. Attached hereto marked Exhibit #6 are true, accurate and correct copies of those notices. Certificates of Release of Liens had been issued concerning many of those taxes and the taxpayer furnished Ms. Martinez copies of all of those certificates of release of lien. Ms. Martinez also told the escrow officer that certificates of release of liens were erroneously filed.

Dated: December 22, 2005

Respectfully submitted

Rodney M. Toothacre, Taxpayer

EXHIBIT 1

UNITED STATES BANKRUPTCY COURT
Southern District of California

IN RE
Rodney M. Toothacre 482-32[redacted]
4225 Executive Square, Suite 260
La Jolla, CA 92037-1483
Marcia L. Toothacre [redacted]

Debtor(s)

Case No.: 95 - 09682 - H 7
Chapter: 7
Judge: John J. Hargrove

DISCHARGE OF DEBTOR

It appears that a petition commencing a case under title 11, United States Code, was filed by or against the person named above on 9/ 8/95 that an order for relief was entered under Chapter 7, and that no complaint objecting to the discharge of the debtor was filed within the time fixed by the court (or that a complaint objecting to discharge of the debtor was filed and, after due notice and hearing, was not sustained).

IT IS ORDERED THAT:

1. The above-named debtor is released from all dischargeable debts.
2. Any judgment heretofore or hereafter obtained in any court other than this court is null and void as a determination of the personal liability of the debtor with respect to any of the following:
   (a) debts dischargeable under 11 U.S.C. § 523;
   (b) unless heretofore or hereafter determined by order of this court to be nondischargeable, debts alleged to be excepted from discharge under clauses (2), (4), (6) or (15) and 11 U.S.C. § 523(a);
   (c) debts determined by this court to be discharged.
3. All creditors whose debts are discharged by this order and all creditors whose judgments are declared null and void in paragraph 2 above are enjoined from instituting or continuing any action or employing any process or engaging in any act to collect such debts as personal liabilities of the above-named debtor.

Dated: 1/19/96

By order of the court:

Barry Lander
Clerk, U. S. Bankruptcy Court

Bankruptcy Court 325 West F Street San Diego, CA 92101-6991

CORDANT
11400 Commerce Park Drive
Reston, Virginia 22091-1506

CERTIFICATE OF SERVICE

1-800-BNC-5055

District/off: 0974-3
Case: 95-09682

User: dmckinne
Form ID: 155

Page 1 of 1
Total Served: 21

Date Rcvd: 01/17/96
Date Served: 01/19/96

Debtor	Toothacre, Rodney M.,	4225 Executive Square, Suite 260, La Jolla, CA 92037-1483
Debtor	Toothacre, Marcia L.,	4225 Executive Square, Suite 260, La Jolla, CA 92037-1483
Aty	Carmellino, Joseph S.,	Law Offices Of Joseph S. Carmellino, 4225 Executive Square, Suite 260, La Jolla, CA 92037-1483
Trustee	Kennedy, James L.,	Receiver/Trustee, P.O. Box 28459, San Diego, CA 92198-0459
1766435	ALAN CERVENKA,	P.O. BOX 7005, SEAL ROCK OR 97376
1766432	AMERICAN SAVINGS BANK,	C/O VALERIE J. DEVERAUX, ESQ., 130 1NEWPORT CENTER DR. #100, NEWPORT BEACH CA 92660
1766433	BANCROFT WHITNEY,	P.O. BOX 7005, SAN FRANCISCO CA 94120
1766445	CHARLES B. PEDERSON,	10095 CONNELL ROAD, SAN DIEGO CA 92131
1766434	DIANE BORNSTEIN,	4312 ABBINGTON COURT, WESTLAKE VLG. CA 91361
1766439	EINRICH HIBPSHMAN,	C/O GORDON A. GLENN, 4248 ADAMS AVENUE, SAN DIEGO CA 92116
1766447	ESTATE OF SOMA L. TOOTHACRE,	4225 EXECUTIVE SQUARE #260, LA JOLLA CA 92037
1766437	FRANCHISE TAX BOARD,	P.O. BOX 942849, SACRAMENTO CA 94240
1766440	INTERNAL REVENUE SERVICE,	880 FRONT STREET, SAN DIEGO CA 92101
1766448	JAMES A. WINN,	2010 W. SAN MARCOS BLVD., #64, SAN MARCOS CA 92069
1766441	MATTHEW BENDER CO.,	136 CARLIN ROAD, CONKLIN NY 13748
1766444	MITSUI KENSETSU DEVELOPMENT,	4225 EXECUTIVE SQ. #1210, LA JOLLA CA 92037
1766446	REPUBLIC RECORD STORAGE,	6350 MIRAMAR ROAD, SAN DIEGO CA 92121
1766442	RICHARD F. MCCARTHY JR.,	21811 CONSTANCIA, MISSION VIEJO CA 92692
1766436	ROBERT DIERINGER,	C/O JOHN RITTENHOUSE ESQ., 185 W. F. ST. #100, SAN DIEGO CA 92101
1766443	TERRY & SHARLENE MILES,	105 NW 194 STREET, RIDGEFIELD WA 98642
1766438	WAYNE GROSS,	2454 TANAGER COURT, CONCORD CA 94520

***** UNDELIVERABLE LIST *****

NONE.

***** CLIN SUMMARY ***** TOTAL: 0

	Description	Unit	Qty	Unit Price	Extended Price
3001	Elect, print one side	Sheet	21	0.13500	2.835
4001	Prepare to transmit Notice Service	Case	1	0.10000	0.100
				TOTAL	2.935

I, H. Douglas Dangerfield, declare under the penalty of perjury that I have prepared the Certificate of Service and that it is true and correct to the best of my information and belief.

01/19/96

Signature: H. Douglas Dangerfield

James L. Kennedy, Trustee
P.O. Box 28459
San Diego, CA 92198-0459
(619) 451-8859

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA
325 West "F" Street, San Diego CA 92101-6991

In Re

RODNEY M. TOOTHACRE
MARCIA L. TOOTHACRE

Bankruptcy No. 95-09682-H7

Nov 22 12 11 PM '95
CLERK
U.S. BANKRUPTCY COURT
SO DIST OF CAL

TRUSTEE'S REPORT OF NO DISTRIBUTION

TO: THE UNITED STATES BANKRUPTCY COURT

The undersigned trustee of the estate of the above-named debtor, hereby reports and certifies that he has performed the duties required of a trustee under 11 U.S.C. Section 704, and has concluded that there are no assets to administer for the benefit of the creditors of this estate. I have received no funds or property of the estate, and paid no monies on account of the estate.

The meeting of creditors in this case was concluded. The joint debtor, if any,

[ ] was not excused from appearing.

[ ] was excused from appearing.

WHEREFORE, The undersigned prays that this report be approved, and he be discharged from office.

Date: ~~October 4, 1995~~
November 16, 1995

James L. Kennedy, Trustee

2

In re ROD M. and MARCIA L. TOOTHACRE Case No. 95-09682-H7

Debtor (If known)

SCHEDULE D - CREDITORS HOLDING SECURED CLAIMS

State the name, mailing address, including zip code, and account number, if any, of all entities holding claims secured by property of the debtor as of the date of filing of the petition. List creditors holding all types of secured interests such as judgment liens, garnishments, statutory liens, mortgages, deeds of trust, and other security interests. List creditors in alphabetical order to the extent practicable. If all secured creditors will not fit on this page, use the continuation sheet provided.

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor," include the entity on the appropriate schedule of creditors, and complete Schedule H - Codebtors. If a joint petition is filed, state whether husband, wife, both of them, or the marital community may be liable on each claim by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community."

If the claim is contingent, place an "X" in the column labeled "Contingent." If the claim is unliquidated, place an "X" in the column labeled "Unliquidated." If the claim is disputed, place an "X" in the column labeled "Disputed." (You may need to place an "X" in more than one of these three columns.)

Report the total of all claims listed on this schedule in the box labeled "Total" on the last sheet of the completed schedule. Report this total also on the Summary of Schedules.

☐ Check this box if debtor has no creditors holding secured claims to report on this Schedule D.

CREDITOR'S NAME AND MAILING ADDRESS INCLUDING ZIP CODE	CODEBTOR	HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED, NATURE OF LIEN, AND DESCRIPTION AND MARKET VALUE OF PROPERTY SUBJECT TO LIEN	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM WITHOUT DEDUCTING VALUE OF COLLATERAL	UNSECURED PORTION, IF ANY
ACCOUNT NO. [redacted] AMERICAN SAVINGS BANK		C	1st T.D. on Residence VALUE $ 325,000.00				242,000.	
ACCOUNT NO. JAMES A. WINN 2010 W. San Marcos Blvd #64 San Marcos, CA 92069		C	2nd T.D./Residence VALUE $325,000.00				28,000.	
ACCOUNT NO.			VALUE $					
ACCOUNT NO.			VALUE $					

Subtotal → (Total of this page) $270,000.

Total → 270,000.

0 continuation sheets attached

Form B6E
Rev. 6/92

In re ROD M. and MARCIA L. TOOTHACRE
Debtor

Case No 95-09682-H7
(If known)

SCHEDULE E - CREDITORS HOLDING UNSECURED PRIORITY CLAIMS

A complete list of claims entitled to priority, listed separately by type of priority, is to be set forth on the sheets provided. Only holders of unsecured claims entitled to priority should be listed in this schedule. In the boxes provided on the attached sheets, state the name and mailing address, including zip code, and account number, if any, of all entities holding priority claims against the debtor or the property of the debtor, as of the date of the filing of this petition.

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor," include the entity on the appropriate schedule of creditors, and complete Schedule H - Codebtors. If a joint petition is filed, state whether husband, wife, both of them, or the marital community may be liable on each claim by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community."

If the claim is contingent, place an "X" in the column labeled "Contingent." If the claim is unliquidated, place an "X" in the column labeled "Unliquidated." If the claim is disputed, place an "X" in the column labeled "Disputed." (You may need to place an "X" in more than one of these three columns.)

Report the total of claims listed on each sheet in the box labeled "Subtotal" on each sheet. Report the total of all claims listed on this Schedule E in the box labeled "Total" on the last sheet of the completed schedule. Repeat this total also on the Summary of Schedules.

☐ Check this box if debtor has no creditors holding unsecured priority claims to report on this Schedule E.

TYPES OF PRIORITY CLAIMS (Check the appropriate box(es) below if claims in that category are listed on the attached sheets)

☐ Extensions of credit in an involuntary case

Claims arising in the ordinary course of the debtor's business or financial affairs after the commencement of the case but before the earlier of the appointment of a trustee or the order for relief. 11 U.S.C. § 507(a)(2)

☐ Wages, salaries, and commissions

Wages, salaries, and commissions, including vacation, severance, and sick leave pay owing to employees, up to a maximum of $2000 per employee, earned within 90 days immediately preceding the filing of the original petition, or the cessation of business, whichever occurred first, to the extent provided in 11 U.S.C. § 507(a)(3).

☐ Contributions to employee benefit plans

Money owed to employee benefit plans for services rendered with 180 days immediately preceding the filing of the original petition, or the cessation of business, whichever occurred first, to the extent provided in 11 U.S.C. § 507(a)(4).

☐ Certain farmers and fishermen

Claims of certain farmers and fishermen, up to a maximum of $2000 per farmer or fisherman, against the debtor, as provided in 11 U.S.C. § 507(a)(5).

☐ Deposits by individuals

Claims of individuals up to a maximum of $900 for deposits for the purchase, lease, or rental of property or services for personal, family, or household use, that were not delivered or provided. 11 U.S.C. § 507(a)(6).

X Taxes and Certain Other Debts Owed to Governmental Units

Taxes, customs duties, and penalties owing to federal, state, and local governmental units as set forth in 11 U.S.C. § 507(a)(7).

☐ Commitments to Maintain the Capital of an Insured Depository Institution

Claims based on commitments to the FDIC, RTC, Director of the Office of Thrift Supervision, Comptroller of the Currency, or Board of Governors of the Federal Reserve System, or their predecessors or successors, to maintain the capital of an insured depository institution. 11 U.S.C. § 507(a)(8).

In re ROD M. and MARCIA L. TOOTHACRE Case No. 95-09682-H7

Debtor (If known)

SCHEDULE E - CREDITORS HOLDING UNSECURED PRIORITY CLAIMS
(Continuation sheet)

Tax

TYPE OF PRIORITY

CREDITOR'S NAME AND MAILING ADDRESS INCLUDING ZIP CODE	CODEBTOR	HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED AND CONSIDERATION	CONTINGENT	UNLIQUIDATED	DISPUTED	TOTAL AMOUNT OF CLAIM	AMOUNT ENTITLED TO PRIORITY
ACCOUNT NO. 482-32[redacted] Franchise Tax Board POB 942849 Sacramento, CA 94240			1993 & 1994			X	27,295.00	
ACCOUNT NO. 482-32[redacted] Internal Revenue Service Fresno, CA 93888			1193 & 1194			X	326,965.00	
ACCOUNT NO.								
ACCOUNT NO.								
ACCOUNT NO.								

Sheet no. 1 of 1 sheets attached to Schedule of Creditors Holding Unsecured Priority Claims

Subtotal -> (Total of this page) $ 354,260.00

Total -> (Use only on last page of the completed Schedule E.) $ 354,260.00

(Report total also on Summary of Schedules)

In re: ROD M. and MARCIA L. TOOTHACRE / Debtor Case No. 95-09682-H7

SCHEDULE F - CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS

	Creditor Name and Address	Date Claim was Incurred Consideration for Claim	Claim Amount and Notes*
1.	Account No. 902104[redacted] Bancroft-Whitney P. O. Box 7005 San Francisco, CA 94120	Law library update	$ 2,442.00
2.	Account No. Diane Bornstein 4312 Abbington Ct. Westlake Village, CA 91361	Loan	$ 23,500.00
3.	Account No. Alan Cervenka P. O. Box 294 Seal Rock, OR 97376	Loan	$ 34,336.00
4.	Account No. Robert Dieringer c/o Gallo & Sullivan P. O. Box 6129 Los Osos, CA 93412	Loan	$ 105,700.00
5.	Account No. Estate of Soma L. Toothacre 4225 Executive Sq., #260 La Jolla, CA 92037	Loans	$ 25,432.00
6.	Account No. Hibpshman, Hinrich c/o Gordon A. Glenn 4248 Adams Ave. San Diego, CA 92116	Judgment claim	$ 49,000.00
7.	Account No. [redacted] Matthew Bender Co. 136 Carlin Rd. Conklin, NY 13748	Law library update	$ 6,387.00
.	Account No. Mitsui Kensetsu Dev. 4225 Executive Sq., #1210 La Jolla, CA 92037	Law offices	$ 123,786.00

continuation sheet attached

Subtotal: $ 370,583.00

In re: ROD M. and MARCIA L. TOOTHACRE / Debtor Case No. 95-09682-H7

SCHEDULE F - CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS
(Continuation Sheet)

	Creditor Name and Address	Date Claim was Incurred Consideration for Claim	Claim Amount and Notes*
9.	Account No. Republic Record Storage 6350 Miramar Rd. San Diego, CA 92121	Miscellaneous services	$ 10,550.00
10.	Account No. Rod & Maria Toothacre 13782 Indian Pk. Trail Poway, CA 92064	Loans to firm 1988-1994	$ 234,669.00
11.	Account No. Terry & Sharlene Miles 105 NW 194th St. Ridgefield, WA 98642	Judgment claim	$ 52,000.00
12.	Account No. Richard F. McCarthy, Jr. 27722 Vista de Lago Mission Viejo, California 92692	1994 Claim for damages	Unknown In Dispute

Sheet no. 1 of 1

Subtotal: $ 297,219.00
Total: $ 667,802.00

United States Bankruptcy Court

SOUTHERN District of CALIFORNIA

VOLUNTARY PETITION

IN RE (Name of debtor - If individual, enter Last, First, Middle)
TOOTHACRE, RODNEY M.

NAME OF JOINT DEBTOR (Spouse) (Last, First, Middle)
TOOTHACRE, MARCIA L.

ALL OTHER NAMES used by the debtor in the last 6 years (Include married, maiden, and trade names.)

ALL OTHER NAMES used by the joint debtor in the last 6 years (Include married, maiden, and trade names.)

SOC. SEC. / TAX I.D. NO. (If more than one, state all.)
482-32-[redacted]

SOC. SEC. / TAX I.D. NO. (If more than one, state all.)
546-50-[redacted]

STREET ADDRESS OF DEBTOR (No. and street, city, state, and zip code)
13742 Indian Peak Trail
Poway, California 92064

COUNTY OF RESIDENCE OR PRINCIPAL PLACE OF BUSINESS: San Diego

STREET ADDRESS OF JOINT DEBTOR (No. and street, city, state, and zip code)
13742 Indian Peak Trail
Poway, California 92064

COUNTY OF RESIDENCE OR PRINCIPAL PLACE OF BUSINESS: San Diego

MAILING ADDRESS OF DEBTOR (If different from street address)
4225 Executive Square, Suite 260
La Jolla, California 92037-1483

MAILING ADDRESS OF JOINT DEBTOR (If different from street address)
4225 Executive Square, Suite 260
La Jolla, California 92037-1483

LOCATION OF PRINCIPAL ASSETS OF BUSINESS DEBTOR (If different from addresses listed above)

VENUE (Check one box)

- [X] Debtor has been domiciled or has had a residence, principal place of business, or principal assets in this District for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other District.
- [ ] There is a bankruptcy case concerning debtor's affiliate, general partner, or partnership pending in this District.

INFORMATION REGARDING DEBTOR (Check applicable boxes)

TYPE OF DEBTOR

- [ ] Individual
- [X] Joint (Husband & Wife)
- [ ] Partnership
- [ ] Other:
- [ ] Corporation Publicly Held
- [ ] Corporation Not Publicly Held
- [ ] Municipality

CHAPTER OR SECTION OF BANKRUPTCY CODE UNDER WHICH THE PETITION IS FILED (Check one box)

- [X] Chapter 7
- [ ] Chapter 9
- [ ] Chapter 11
- [ ] Chapter 12
- [ ] Chapter 13
- [ ] Sec. 304 - Case Ancillary to Foreign Proceeding

NATURE OF DEBT

- [X] Non-Business / Consumer
- [X] Business - Complete A & B below

FILING FEE (Check one box)

- [X] Filing fee attached
- [ ] Filing fee to be paid in installments (Applicable to individuals only.) Must attach signed application for the court's consideration certifying that the debtor is unable to pay fee except in installments. Rule 1006(b). See Official Form No. 3.

A. TYPE OF BUSINESS (Check one box)

- [ ] Farming
- [X] Professional
- [ ] Retail / Wholesale
- [ ] Railroad
- [ ] Transportation
- [ ] Manufacturing/Mining
- [ ] Stockbroker
- [ ] Commodity Broker
- [ ] Construction
- [ ] Real Estate
- [ ] Other Business

NAME AND ADDRESS OF LAW FIRM OR ATTORNEY
JOSEPH S. CARMELLINO, ESQ. (SB#110284)
4225 Executive Square, Suite 260
La Jolla, California 92037-1483
Telephone No. (619) 457-4240

B. BRIEFLY DESCRIBE NATURE OF BUSINESS
Attorney

NAME(S) OF ATTORNEY(S) DESIGNATED TO REPRESENT THE DEBTOR (Print or Type Names)
JOSEPH S. CARMELLINO

- [ ] Debtor is not represented by an attorney

STATISTICAL ADMINISTRATIVE INFORMATION (28 U.S.C. § 604) (Estimates only) (Check applicable boxes)

- [ ] Debtor estimates that funds will be available for distribution to unsecured creditors.
- [X] Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors.

ESTIMATED NUMBER OF CREDITORS

1-15	16-49	50-99	100-199	200-999	1000-over
[ ]	[X]	[ ]	[ ]	[ ]	[ ]

ESTIMATED ASSETS (In thousands of dollars)

Under 50	50-99	100-499	500-999	1000-9999	10,000-99,000	100,000-over
[ ]	[ ]	[ ]	[X]	[ ]	[ ]	[ ]

ESTIMATED LIABILITIES (In thousands of dollars)

Under 50	50-99	100-499	500-999	1000-9999	10,000-99,000	100,000-over
[ ]	[ ]	[ ]	[ ]	[X]	[ ]	[ ]

ESTIMATED NO. OF EMPLOYEES - CHAPTER 11 & 12 ONLY

0	1-19	20-99	100-999	1000-over
[ ]	[ ]	[ ]	[ ]	[ ]

ESTIMATED NO. OF EQUITY SECURITY HOLDERS - CHAPTER 11 & 12 ONLY

0	1-19	20-99	100-499	500-over
[ ]	[ ]	[ ]	[ ]	[ ]

THIS SPACE FOR COURT USE ONLY

FILED
SEP 8 9 36 AM '95
CLERK
U.S. BANKRUPTCY CT
SO DIST OF CALIF

19591

95-09682-H7

Name of Debtor ______________________

Case No. ______________________

FILING OF PLAN

For Chapter 9, 11, 12 and 13 cases only. Check appropriate box.

☐ A copy of debtor's proposed plan dated ______________ is attached.

☐ Debtor intends to file a plan within the time allowed by statute, rule, or order of the court.

PRIOR BANKRUPTCY CASE FILED WITHIN LAST 6 YEARS (If more than one, attach additional sheet)

Location Where Filed	Case Number	Date Filed
List attached		

PENDING BANKRUPTCY CASE FILED BY ANY SPOUSE, PARTNER, OR AFFILIATE OF THIS DEBTOR (If more than one, attach additional sheet)

Name of Debtor	Case Number	Date
List attached		
Relationship	**District**	**Judge**

REQUEST FOR RELIEF

Debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.

SIGNATURES

ATTORNEY

X [signature]
Signature

Date 9/7/85

INDIVIDUAL/JOINT DEBTOR(S)

I declare under penalty of perjury that the information provided in this petition is true and correct.

X [signature]
Signature of Debtor

9/7/95
Date

X [signature]
Signature of Joint Debtor

9/7/95
Date

CORPORATE OR PARTNERSHIP DEBTOR

I declare under penalty of perjury that the information provided in this petition is true and correct, and that the filing of the petition on behalf of the debtor has been authorized.

X ______________________
Signature of Authorized Individual

____
Print or Type Name of Authorized Individual

____
Title of Individual Authorized by Debtor to File this Petition

____
Date

EXHIBIT "A" (To be completed if debtor is a corporation requesting relief under chapter 11.)

☐ Exhibit "A" is attached and made a part of this petition.

TO BE COMPLETED BY INDIVIDUAL CHAPTER 7 DEBTOR WITH PRIMARILY CONSUMER DEBTS (SEE P.L. 98-353 § 322)

I am aware that I may proceed under chapter 7, 11, or 12, or 13 of title 11, United States Code, understand the relief available under each such chapter, and choose to proceed under chapter 7 of such title.

If I am represented by an attorney, exhibit "B" has been completed.

X [signature]
Signature of Debtor

9/7/95
Date

X [signature]
Signature of Joint Debtor

Sept. 7, 1995
Date

EXHIBIT "B" (To be completed by attorney for individual chapter 7 debtor(s) with primarily consumer debts.)

I, the attorney for the debtor(s) named in the foregoing petition, declare that I have informed the debtor(s) that (he, she, or they) may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each such chapter.

X [signature]
Signature of Attorney

9/7/95
Date

EXHIBIT 2

RECORDING REQUESTED BY:

Internal Revenue Service

AND WHEN RECORDED MAIL TO:

Internal Revenue Service
P.O. Box 30216
Laguna Niguel, CA 92607

1750

DOC # 1997-0048509
04-FEB-1997 02:30 PM

OFFICIAL RECORDS
SAN DIEGO COUNTY RECORDER'S OFFICE
GREGORY SMITH, COUNTY RECORDER
RF: 5.00 FEES: 7.00
AF: 1.00
MF: 1.00

THIS SPACE RESERVED FOR RECORDER ONLY

Form 668 (Y) (Rev. October 1993) 341

Department of the Treasury - Internal Revenue Service

Notice of Federal Tax Lien

District: SOUTHERN CALIFORNIA

Serial Number: 339702927

As provided by section 6321, 6322, and 6323 of the Internal Revenue Code, we are giving a notice that taxes (including interest and penalties) have been assessed against the following-named taxpayer. We have made a demand for payment of this liability, but it remains unpaid. Therefore, there is a lien in favor of the United States on all property and rights to property belonging to this taxpayer for the amount of these taxes, and additional penalties, interest, and costs that may accrue.

Name of Taxpayer: RODNEY M & MARCIA L TOOTHACRE

Residence: 13742 INDIAN PEAK TRAIL
POWAY, CA 92064

IMPORTANT RELEASE INFORMATION: For each assessment listed below, unless notice of the lien is refiled by the date given in column (e), this notice shall, the day following such date, operate as a certificate of release as defined in IRC 6325(a).

Kind of Tax (a)	Tax Period Ending (b)	Identifying Number (c)	Date of Assessment (d)	Last Day for Refiling (e)	Unpaid Balance of Assessment (f)
1040	12/31/93	482-32[redacted]	05/01/95	05/31/05	128671.68
1040	12/31/94	482-32-[redacted]	06/05/95	07/05/05	10567.68

Place of Filing

COUNTY RECORDER
SAN DIEGO COUNTY
SAN DIEGO, CA 92101

Total $ 139239.36 ✓

This notice was prepared and signed at Laguna Niguel, CA, on the, 30th day of January, 1997.

Signature
for L SALVO

Title: Revenue Officer 33-01-1523
(619) 557-6371

(NOTE: Certificate of officer authorized by law to take acknowledgment is not essential to the validity of Notice of Federal Tax lien Rev. Rul. 71-466, 1971 - 2 C.B. 409)

Part 1 - Kept by Recording Office

Form 668 (Y) (Rev. 10-93)

EXHIBIT 3

Form 668 (Z)
(Rev. 10-2000)

3469

Department of the Treasury - Internal Revenue Service

Certificate of Release of Federal Tax Lien

Area: SMALL BUSINESS/SELF EMPLOYED AREA #14 Lien Unit Phone: (800) 913-6050	Serial Number 339702927	For Use by Recording Office

I certify that the following-named taxpayer, under the requirements of section 6325 of the Internal Revenue Code has satisfied the taxes listed below and all statutory additions. Therefore, the lien provided by Code section 6321 for these taxes and additions has been released. The proper officer in the office where the notice of internal revenue tax lien was filed on February 04, 1997, is authorized to note the books to show the release of this lien for these taxes and additions.

001916

Name of Taxpayer RODNEY M & MARCIA L TOOTHACRE

Residence 13742 INDIAN PEAK TRAIL
POWAY, CA 92064

COURT RECORDING INFORMATION:

Liber	Page	UCC No.	Serial No.
n/a	n/a	n/a	970048509

Kind of Tax (a)	Tax Period Ended (b)	Identifying Number (c)	Date of Assessment (d)	Last Day for Refiling (e)	Unpaid Balance of Assessment (f)
1040	12/31/1993	482-32[redacted]	05/01/1995	05/31/2005	128671.68
1040	12/31/1994	482-32[redacted]	06/05/1995	07/05/2005	10567.68
xxxxx	xxxxxxxxxxxxx	xxxxxxxxxxxxxxxxx	xxxxxxxxxxxxxx	xxxxxxxxxxxx	xxxxxxxxxxxx

Place of Filing

COUNTY RECORDER
SAN DIEGO COUNTY
SAN DIEGO, CA 92101

Total 139239.36

This notice was prepared and signed at LAGUNA NIGUEL, CA, on this,

the 08th day of August, 2005.

Signature

Title
Director, Payment Compliance

(NOTE: Certificate of officer authorized by law to take acknowledgements is not essential to the validity of Certificate of Release of Federal Tax Lien
Rev. Rul. 71-466, 1971 - 2 C.B. 409

Part 2 - Taxpayer's Copy

EXHIBIT 4

IRS Department of the Treasury Internal Revenue Service
PO BOX 145585 STOP 8420G
CINCINNATI, OH 45250-5585

CERTIFIED MAIL

7178 2665 9394 6124 4132

Letter Date: 12/13/2005
Taxpayer Identification Number:
482-32[redacted]
Contact Person:
A. MARTINEZ
Employee Identification Number:
33-07811
Contact Telephone Number:
(619) 615-9550

RODNEY M & MARCIA L TOOTHACRE
13742 INDIAN PEAK TRL
POWAY, CA 92064-3056

001478

Notice of Federal Tax Lien Filing and Your Right to a Hearing Under IRC 6320

We filed a Notice of Federal Tax Lien on 12/06/2005

Type of Tax	Tax Period	Amount Owed
1040	12/31/1993	112762.37
1040	12/31/1994	9967.68

The lien attaches to all the property you currently own and to all property you may acquire in the future. It also may damage your credit rating and hinder your ability to obtain additional credit.

You have a right to request a hearing with us to appeal this collection action and to discuss your payment method options. To explain the different collection appeal procedures available to you, we've enclosed Publication 1660, *Collection Appeal Rights.*

If you want to request a hearing, please complete the enclosed form 12153, *Request for a Collection Due Process Hearing,* and mail it to:

Internal Revenue Service
880 FRONT STREET
ROOM 3295
SAN DIEGO, CA 92101

You must request your hearing by 01/12/2006.

We'll issue a Certificate of Release of the Federal Tax Lien within 30 days after you pay the full amount owed. To get the current amount owed, contact the person whose name and telephone number appear at the top of this letter

(over)

We'll also release the lien within 30 days after we accept a bond guaranteeing payment of the amount owed or after we adjust your account based on the decision of your requested hearing. We enclosed Publication 1450, *Instructions on how to Request a Certificate of Release of Federal Tax Lien*.

If you have any questions, please contact the person whose name and telephone number appear at the top of this letter.

Sincerely,

Susan A. Hansen

Director, Campus Compliance Operations

Enclosures:
Publication 1, *Your Rights as a Taxpayer*
Publication 1450, *Instructions on How to Request a Certificate of Release of Federal Tax Lien*
Publication 1660, *Collection Appeal Rights*
Form 668-Y (C), *Notice of Federal Tax Lien*
Form 12153, *Request for a Collection Due Process Hearing*

EXHIBIT 5

490 Activity Summary - 482-32[redacted]TOOT

FED - 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 RODNEY M & MARCIA L TOOTHACRE 1040 Tax Period: 1993/12

Run Method:	IRS Default	Module Status:	Open/(Open)
Interest To:	07/18/2005	GATT Date:	GATT is OFF
GATT Method:	N/A	LCU Interest Date:	LCU Interest is OFF
LCU Method:	N/A	Overpay Net Start:	All Dates Included
Underpay Net Start:	All Dates Included		

Date Transcript	Date Susp/Equal	Date Effective	Description	Susp/Equal	Principal	Balance
04/15/1994			150 Return Filed & Assessment of Tax		92,666.00	92,666.00
10/15/1994			166 Delinquency Penalty		20,849.85	113,515.85
05/01/1995			276 Failure to Pay Tax Penalty		6,023.29	119,539.14
05/01/1995			277 Abatement of Failure to Pay Tax		-463.33	119,075.81
03/03/1997			360 Fees and Collection Costs		14.00	119,089.81
05/27/1997			670 Subsequent Payment		-220.88	118,868.93
09/11/1997			670 Subsequent Payment		-3,797.70	115,071.23
09/11/1997			694 Designated Payment of Fees and C		-302.30	114,768.93
11/17/1997			360 Fees and Collection Costs		302.30	115,071.23
04/07/1998			670 Subsequent Payment		-6.83	115,064.40
04/15/1998			706 Generated Overpayment Applied fr		-7,561.00	107,503.40
04/15/1999			706 Generated Overpayment Applied fr		-3,010.00	104,493.40
10/27/2004			670 Subsequent Payment		-187.50	104,305.90
11/24/2004			670 Subsequent Payment		-187.50	104,118.40
12/22/2004			670 Subsequent Payment		-187.50	103,930.90
01/25/2005			670 Subsequent Payment		-191.10	103,739.80
02/23/2005			670 Subsequent Payment		-191.10	103,548.70
03/23/2005			670 Subsequent Payment		-191.10	103,357.60
04/27/2005			670 Subsequent Payment		-191.10	103,166.50
07/18/2005			276 Failure to Pay Tax Penalty		17,603.22	120,769.72

Date		Description	Amount	Factor	Interest	Balance
04/15/1994		150 Return Filed & Assessment of Tax	92,666.00			92,666.00
04/16/1994	10/15/1994	Underpay	92,666.00	0.039182445	3,630.88	96,296.88
10/15/1994		166 Delinquency Penalty	20,849.85			117,146.73
10/16/1994	05/01/1995	Underpay	117,146.73	0.050918973	5,964.99	123,111.72
05/01/1995		276 Failure to Pay Tax Penalty	6,023.29			
		277 Abatement of Failure to Pay Tax	(463.33)			128,671.68
05/02/1995	03/03/1997	Underpay	128,671.68	0.178908885	23,020.51	151,692.19
03/03/1997		360 Fees and Collection Costs	14.00			151,706.19
03/04/1997	05/27/1997	Underpay	151,706.19	0.021177446	3,212.75	154,918.94
05/27/1997		670 Subsequent Payment	(220.88)			154,698.06
05/28/1997	09/11/1997	Underpay	154,698.06	0.026731350	4,135.29	158,833.35
09/11/1997		670 Subsequent Payment	(3,797.70)			
		694 Designated Payment of Fees and C	(302.30)			154,733.35
09/12/1997	11/17/1997	Underpay	154,723.35	0.016555696	2,577.19	157,310.54
11/17/1997		360 Fees and Collection Costs	302.30			157,612.84
11/18/1997	04/07/1998	Underpay	157,612.84	0.035175628	5,544.13	163,156.97
04/07/1998		670 Subsequent Payment	(6.83)			163,150.14
04/08/1998	04/15/1998	Underpay	163,150.14	0.001754770	286.29	163,436.43
04/15/1998		706 Generated Overpayment Applied fr	(7,561.00)			155,875.43
04/15/1998	04/15/1999	Underpay	155,875.43	0.080610314	12,565.17	168,440.60
04/15/1999		706 Generated Overpayment Applied fr	(3,010.00)			165,430.60
04/16/1999	10/27/2004	Underpay	165,430.60	0.441218617	72,991.06	238,421.66
10/27/2004		670 Subsequent Payment	(187.50)			238,234.16
10/28/2004	11/24/2004	Underpay	238,234.16	0.003832200	912.96	239,147.12
11/24/2004		670 Subsequent Payment	(187.50)			238,959.62

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EXHIBIT 6

15:39 FR FHF SHOREHAM 8584578149 TO IMS P.03
09:29 IRS 5B5E SAN DIEGO 619 615 3722 P.03/03

Department of the Treasury-Internal Revenue Service

Notice of Federal Taxes Due

Escrow or Docket Number
8848051-ND

Amount due
$76,534.44

f Escrow Holder, Agent of Taxpayer or Fiduciary)
ATIONAL TITLE
ROSI – ESCROW OFFICER

t, P.O. Box, City, State, Zip code)
EHAM PLACE, #130
), CALIFORNIA 92122

ied that there is now due, owing, and unpaid from – (Name and Address of Taxpayer)
Foothacre
n Peak Trl, Poway, CA 92064-3058

merica, the sum of SEVENTY SIX THOUSAND FIVE HUNDRED THIRTY FOUR DOLLARS & 44/100

Taxes secured by a lien pursuant to Internal Revenue Code (IRC) Sections 6321 and 6322, or Estate Tax Lien ction 6324, from the date of each Assessment.

	Taxpayer EIN or SSN	Assessment Date	Unpaid Assessed Balance	Accrued Interest	Accrued Late Payment Penalty	TOTAL
/92	482-32[redacted]	09/21/1992	$8,823.78	$14,708.08	$1,882.83	$25,322.75 ND
1/92	482-32[redacted]	12/21/1992	$9,258.86	$14,778.57	$1,966.50	$26,004.73 ND
1/ ?	482-32-[redacted]	04/12/1993	$8,979.10	$13,948.70	$1,904.43	$24,830.23 ND
1/95	482-32[redacted]	07/03/1995	$58.93	$94.38		$ 151.31 ND
1/96	482-32-[redacted]	12/09/1996	$14.00	$11.42		$ 25.42 OK ND

ional interest will 12/19/2005 Dated at San Diego, California 92101 this 5TH day

Federal Tax Lien(s) has been recorded, a *Certificate of Release of Federal Tax Lien will be filed immediately only if* *ade in cash or by either a certified, cashier's, or treasurers check. The check must be drawn on any bank or* *y incorporated under the laws of the United States, or of any state or possession of the United States. Payment* *made by a United States postal, bank, express, or telegraph money order. If you pay by personal check,* *the certificate of release will be delayed until the bank honors the check.*

duciaries: For personal liability for failure to honor priority of debts due the United States, see Sections 3466 and 3467 of atutes (31 U.S.C. 191, 192).

5:38 FR FNF SHOREHAM 8584578149 TO IMS P.02
09:28 IRS SBSE SAN DIEGO 619 615 5722 P.02/03

Department of the Treasury-Internal Revenue Service

Notice of Federal Taxes Due

Escrow or Docket Number
8848051-ND

Amount due
$409,732.93

(Escrow Holder, Agent of Taxpayer or Fiduciary)
ATIONAL TITLE
ROSI – ESCROW OFFICER

, P.O. Box, City, State, Zip code)
EHAM PLACE, #130
, CALIFORNIA 92122

ed that there is now due, owing, and unpaid from – (Name and Address of Taxpayer)
oothacre
Peak Trl, Poway, CA 92064-3058

f America, the sum of FOUR HUNDRED NINE THOUSAND SEVEN HUNDRED THIRTY TWO DOLLARS

Taxes secured by a lien pursuant to Internal Revenue Code (IRC) Sections 6321 and 6322, or Estate Tax Lien ction 6324, from the date of each Assessment.

	Taxpayer EIN or SSN	Assessment Date	Unpaid Assessed Balance	Accrued Interest	Accrued Late Payment Penalty	TOTAL	
93	482-32[redacted]	05/01/1995	$112,566.52	$141,569.72	$17,603.22	$271,729.86	ND #1
94	482-32[redacted]	08/05/1995	$9,967.68	$12,058.65	$2,358.00	$24,384.33	ND #1
95	482-32[redacted]	11/24/1997	$27,833.65	$20,078.68	$2,088.75	$50,301.08	OK
96	482-32[redacted]	11/24/1997	$12,684.56	$9,250.29	$2,228.73	$24,163.58	OK
2003	482-32[redacted]	11/08/2004	$17,651.12	$1,250.38	$2,175.[illegible]	$21,077.14	OK
2004	482-32[redacted]	05/30/2005	$16,476.45	$655.45	$946.08	$18,078.98	OK

ed interest will | 01/07/2006 | Dated at San Diego, California 92101 this 5TH day

deral Tax Lien(s) has been recorded, a *Certificate of Release of Federal Tax Lien* will be filed immediately *only if* *te in cash or by either a certified, cashier's, or treasurers check. The check must be drawn on any bank or incorporated under the laws of the United States, or of any state or possession of the United States. Payment de by a United States postal, bank, express, or telegraph money order. If you pay by personal check, certificate of release will be delayed until the bank honors the check.*

ciaries: For personal liability for failure to honor priority of debts due the United States, see Sections 3466 and 3467 of es (31 U.S.C. 191, 192).

EXHIBIT "F"

JOSEPH S. CARMELLINO
ATTORNEY AT LAW

CARMEL VALLEY CENTRE I
11975 EL CAMINO REAL
SUITE 203
SAN DIEGO, CALIFORNIA 92130
TELEPHONE (858) 622-8377
FAX (858) 350-0233
eMail joseph@carmellinolaw.com

January 3, 2006

Ms. A. Martinez, Revenue Officer 33-07811
INTERNAL REVENUE SERVICE
880 Front Street, Room 3293
San Diego, California 92101

Via Fax Only
619.615.3722

Re: Rodney M. Toothacre, SS# 482 32 [redacted]

Dear Ms. Martinez:

This will acknowledge receipt of your voice mail message left on my phone December 22, 2005 advising me that you would return on January 3, 2006 after your Christmas break.

In that message you indicated that Mr. Toothacre's offer to pay taxes did not even cover all of the taxes due. I would point out that Mr. Toothacre in fact has offered to pay, in full, all taxes, interest and penalties which are collectible by the IRS. He now renews that offer with the qualification that the offer does not contemplate or allow the escrow holder to hold $100,000.00, or any other sum or sums, toward the payment of alleged taxes which are uncollectible.

Mr. Toothacre is not now certain whether his refinance can close even if the IRS ceases its interference. If it does not close, of course, it is our intention to avail ourselves of the remedies provided by IRC 7433 to make my client whole. Mr. Toothacre has already filed his appeal, sending it as instructed by certified mail.

My client has now received from the IRS a Final Notice Before Levy On Social Security Benefits. This Notice of Levy indicates that it is issued in an effort to collect 1040 taxes due for the year 2004. Mr. Toothacre acknowledges that those taxes are due, and his refinance escrow will, or at least would have paid them in full. We assume that the IRS is now acknowledging that it was incorrect in levying on Mr. Toothacre's social security benefits and applying them to taxes allegedly due for year 1993. I discussed this matter in a previous letter asking you to take the necessary steps to insure that those funds collected from my client's social security benefits be allocated to taxes which are collectible by the IRS. Mr. Toothacre has just received his check for December 28, 2005, and the government withheld the sum of $225.15. We demand that that amount be allocated or credited to the 2004 taxes. We further demand that those sums already deducted and applied to the uncollectible 1993 taxes be reversed and credited to the 2004 taxes.

A. Martinez/IRS
Ltr. Dtd. January 3, 2006
Re: Tax Lien(s)

Page 2

Further research has discovered that IRS efforts to renew the lien for the 1993 taxes did not follow the procedures set forth in the Internal Revenue Code for instances where the Notice of Lien is truly filed in error. The IRC Code provides as follow:

> 6325(f)(2) REVOCATION OF CERTIFICATE OF RELEASE OR NONATTACHMENT. --If the Secretary determines that a certificate of release or nonattachment of a lien imposed by section 6321 was issued erroneously or improvidently, or if a certificate of release of such lien was issued pursuant to a collateral agreement entered into in connection with a compromise under section 7122 which has been breached, and if the period of limitation on collection after assessment has not expired, the Secretary may revoke such certificate and reinstate the lien --
>
> 6325(f)(2)(A) by mailing notice of such revocation to the person against whom the tax was assessed at his last known address, and
>
> 6325(f)(2)(B) by filing notice of such revocation in the same office in which the notice of lien to which it relates was filed (if such notice of lien had been filed).
>
> Such reinstated lien (i) shall be effective on the date notice of revocation is mailed to the taxpayer in accordance with the provisions of subparagraph (A), but not earlier than the date on which any required filing of notice of revocation is filed in accordance with the provisions of subparagraph (B), and (ii) shall have the same force and effect (as of such date), until the expiration of the period of limitation on collection after assessment, as a lien imposed by section 6321 (relating to lien for taxes).

Please contact me so that we can make arrangements for Mr. Toothacre's refinance escrow can close with no further problems from the IRS.

Sincerely,

Joseph S. Carmellino

Joseph S. Carmellino

JSC:tms
cc: R. M. Toothacre, Esq.

EXHIBIT "G"

JOSEPH S. CARMELLINO
ATTORNEY AT LAW

CARMEL VALLEY CENTRE I
11975 EL CAMINO REAL
SUITE 203
SAN DIEGO, CALIFORNIA 92130
TELEPHONE (858) 622-6377
FAX (858) 350-0233
eMail joseph@carmellinolaw.com

January 18, 2006

Ms. A. Martinez, Revenue Officer 33-07811
INTERNAL REVENUE SERVICE
880 Front Street, Room 3293
San Diego, California 92101

Via Fax Only
619.615.3722

Re: Rodney M. Toothacre, SS# 482 32 [redacted]

Dear Ms. Martinez:

Please append this letter to my Client's appeal previously filed through your office. Once again demand is made that the Internal Revenue Service release the purported Notice of Federal Tax Liens for the years 1040 93, and 1040 94 filed on December 2, 2005. This is an opportunity for the Government to mitigate the damages being incurred by Mr. Toothacre.

Even accepting your theory that the filing of the bankruptcy may have tolled the CSED, the time has still run for the Government to collect the taxes for these two years. The Internal Revenue Service Manual concerning the Collection Quality Measurement System (CQMS) provides that the Taxpayer is entitled to fair and courteous treatment. Under Section 5.13.2.2.7 (05-31-2005) Item 25: Observation of Other Taxpayer Rights 2. These include the following rights: ***J. Timely release of a lien, etc.*** (Emphasis added). You indicated to me that the filing of a bankruptcy caused six months to be tacked on at the end of the 10-year period. Surely, you must be aware that this has not been true since the Supreme Court decided *Young v. United States*, 122 S.Ct. 1036 and the issuance of Notice CC-2002-023 by the Office of Chief Counsel of the Internal Revenue Service (copy enclosed). It is now settled law that a bankruptcy may toll the collection statute of limitations for the full period of the bankruptcy, but for no additional period.

We believe it is arguable that the statutory period for the collection of the 1040 93, and 1040 94 taxes expired at the end of the original ten-year statutory period for collection after December 31, 2002. Internal Revenue Service Manual Section 5.14.2.1.3 (07-12-2005) entitled **CSED EXPIRATION LEGAL REFERENCES: 1.) 90 DAY RULE FOR INSTALLMENT AGREEMENT CSED EXTENSIONS; 2.) NON-INSTALLMENT AGREEMENT CSEDS 6.** provides:

A. Martinez/IRS
Ltr. Dtd. January 18, 2006
Re: Tax Lien(s)

Page 2

> **For CSED extensions/waivers *not* secured with installment agreements, the statutory period for collection will expire December 31, 2002, or at the end of the original ten year statutory period for collection if after December 31, 2002.** [See IRC 6502(a)(2), and proposed Treas. Reg. §301.6502-1(c)].

R.R.A. § 3461. Procedures Relating to Extensions of Statute of Limitations By Agreement. I.R.C. §§ 6501 (c) and 6502(a). Section 6501 of the Internal Revenue Code generally provides that the Service has three years from the date a return is filed to assess additional taxes. Section 6502 generally provides that the Service has ten years from the date of assessment to collect the tax. Prior to the expiration of the limitations period provided by these provisions, the law provided that the taxpayer and the Service could agree in writing to extend the statute of limitations. Congress believed that many taxpayers were not being informed of their rights to refuse to extend the statute of limitations on assessment or to limit the scope of any such extension. In addition Congress believed that all taxes should be collected within the 10-year statute and that the statute should not be extended. Changes made included that the authority to extend the collection statute of limitations by agreement ended on December 31, 1999. **Any extension of the collections statute already in effect on December 31, 1999, expired on December 31, 2002.**

The IRS has ten years to collect a tax once an assessment is made. The actual assessment date is found on a notice of tax lien or in one's Individual Master File. As you know the assessment dates for the years in question are 5/31/05, (unless of course the document previously furnished to us by the IRS is correct in stating that the 93 taxes were assessed in 1994), and 6/05/95. We are awaiting receipt of Mr. Toothacre's Individual Master File (Specific) which we believe will reveal the truth of what has been going on. The literature makes it clear that it is not uncommon for the IRS to try to collect a tax after the statute of limitations has expired, and this abuse was addressed by Congress in part as noted above. This is true in spite of Internal Revenue Service Manual that states at Section 5.1.19.7 (02-15-2005) CSED Payment Applications:

> 1. If payments can be applied to a CSED module, they should be applied to the most imminent CSED first....
>
> 3. Do not solicit voluntary payments on accounts barred by statute. **If a taxpayer makes a payment on an account barred by statute, inform them that the payment is not required and ask if they wish to make the payment or have it returned to them.** The taxpayer must be advised that the payment is purely voluntary and will be treated as a gift to the U.S. Treasury. If the taxpayer's intentions cannot be ascertained, return the payment to the taxpayer. (Emphasis added)

A. Martinez/IRS
Ltr. Dtd. January 18, 2006
Re: Tax Lien(s)

Page 3

The Internal Revenue Manual Section 5.12.6.5.1 (10-01-2003) Certificate of Release provides at number 7. ***Issue a certificate of release if the collection statute has expired, and the taxpayer requests a release.*** (Emphasis added) If it has not previously been made clear, Mr. Toothacre does hereby request that certificates of release be issued immediately for tax years 1040 93 and 1040 94.

Sincerely,

Joseph S. Carmellino

JSC:dlb

cc: R. M. Toothacre, Esq.

January 19, 2006

Ms. A. Martinez
Revenue Officer
Internal Revenue Service
880 Front Street, Room 3293
San Diego, California 92101

Re: Rodney M. Toothacre, SS# 482 32[redacted]

Dear Ms. Martinez:

In reviewing the January 16, 2006 Daily Transcript, I discovered that, on December 21, 2005, the Internal Revenue Service caused to be recorded two Notices of Federal Tax Liens against Toothacre & Pedestrian (sic). One of the liens was in the amount of $8,869.76 and the other in the amount of $22,158.70. I have checked with both my client, Mr. Toothacre, and Mr. Pederson and have been advised that neither of them have received any prior, or subsequent, notice of the action taken by the IRS on that date. I am obtaining copies of the liens from a title insurance company and have not, as yet, seen copies of the actual documents filed by the IRS in December.

As you were made aware by Mr. Toothacre many months ago these taxes were released by the IRS on August 8, 2005. I am enclosing copies of those Certificates of Release of Federal Tax Liens for your information, although Mr. Toothacre provided these to you by his previous letter. As indicated on the face of these documents the last days for refiling (CSED) were in 2002. As you know this is 2006. The collection statute has run. The Collection Statute Expiration Date came and went over three years ago. You must be **fully aware** of these facts.

It is patently obvious that the refiling of these liens is malicious and an obvious attempt by the Service to bully my client and destroy his life. All of this in violation of your own Manual and the Taxpayer Bill of Rights. Mr. Toothacre is trying to pay those taxes which are due, and collectible, and you are making every effort to thwart his attemmpts.

DEMAND IS HEREBY MADE THAT THESE LIENS BE IMMEDIATELY RELEASED.

Very Truly Yours

LAW OFFICES OF JOSEPH S. CARMELLINO

Joseph S. Carmellino

JSC:dlb

1040 balance of $5,921.29. Recorded San Diego County, document 0000660 - 264950305

Santee - Darcy W. Granbois, taxpayer, 10844 El Nopal 92071, Property lien for 1040 balance of $6,960.32. Recorded San Diego County, document 0000661 - 264951205

Encinitas - Phillip Jaffe, taxpayer, 1100 Garden View Road, Apt. 205 92024, Property lien for 1040 balance of $27,371.80. Recorded San Diego County, document 0000662 - 264951305

La Jolla - John Cole, taxpayer, 755 Silver St. 92037, Property lien for 1040 balance of $55,506.60. Recorded San Diego County, document 0000663 - 264951905

Chula Vista - Albert J. Beck, taxpayer, 2109 N. Shore Drive, Unit B 91913, Property lien for 1040 balance of $8,664.48. Recorded San Diego County, document 0000666 - 264953005

Encinitas - Gloria J. Gomez, taxpayer, 375 La Mesa Ave. 92024, Property lien for CIVP balance of $27,039.40. Recorded San Diego County, document 0000666 - 264953605

Chula Vista - Diana K. Leos-Hedges & Roy Hedges, Jr., taxpayer, 86 Madison Ave., Apt. 6 91910, Property lien for 1040 balance of $1,058.96. Recorded San Diego County, document 0000667 - 264953705

San Diego - Jacob A. Romyn, taxpayer, 4230 Montalvo, Apt. 2 92107, Property lien for

balance of $5,813.34. Recorded San Diego County, document 1115482 - 263620705

San Diego - Kathi Reese, taxpayer, 3633 Camino del Rio South, #101 92108, Property lien for 1040 balance of $78,878.90. Recorded San Diego County, document 1115468 - 263307605

Recorded 12/22/05

La Jolla - Toothacre & Pedestrian, a Ptr., Rod M. Toothacre, a Ptr. & Charles Pederson, a Ptr., taxpayer, 4180 La Jolla Village Drive, Ste. 400 92037, Property lien for 941 balance of $8,869.76. Recorded San Diego County, document 1097286 - 265212205

La Jolla - Toothacre & Pedestrian, a Ptr., Rod M. Toothacre, a Ptr. & Charles Pederson, a Ptr., taxpayer, 4180 La Jolla Village Drive, Ste. 400 92037, Property lien for 941 balance of $22,158.70. Recorded San Diego County, document 1097285 - 265212405

Recorded 12/21/05

Del Mar - Joseph S. Urbon & Teresa S. Stroebel, taxpayer, 13731 Nob Ave. 92014, Property lien for 1040 balance of $11,681.00. Recorded San Diego County, document 1092922 - 262776805

Spring Valley - William H. Homer, taxpayer, 3609 Steele Canyon Road 91978, Property lien for 940, 941 balance of $4,850.45. Recorded San Diego County, document 1092921 - 262776705

San Diego - Infinity Staffing Solutions, a Ptr.,

San Marcos - Jack O. & Annette M. Midland, taxpayer, 643 Cassou 92069, Property lien for 1040 balance of $2,606.97. Recorded San Diego County, document 1092914 - 262775705

San Diego - Clifford G. Jones, taxpayer, 4075 Arizona St., Apt. G 92104, Property lien for 1040 balance of $5,949.75. Recorded San Diego County, document 1092897 - 262486705

El Cajon - Christopher McCleney, taxpayer, 1299 Dunsmuir St. 92019, Property lien for 1040 balance of $26,093.60. Recorded San Diego County, document 1092898 - 262486805

Vista - Frank L. Bennett, taxpayer, 2056 Courage St. 92081, Property lien for 1040 balance of $4,057.79. Recorded San Diego County, document 1092899 - 262526405

El Cajon - Maria Contreras dba Bright Cleaning Co., taxpayer, 1562 E. Main St., Apt. 203 92021, Property lien for 940, 941 balance of $2,292.62. Recorded San Diego County, document 1092900 - 262526805

Chula Vista - James A. Gutierrez, taxpayer, 550 Oxford, Apt. 1107 91911, Property lien for 1040 balance of $11,682.70. Recorded San Diego County, document 1092901 - 262550705

Chula Vista - James Gutierrez, taxpayer, 550 Oxford, Apt. 1107 91911, Property lien for

--x--

Form 668 (Z)
(Rev. 10-2000)

3469

Department of the Treasury - Internal Revenue Service

Certificate of Release of Federal Tax Lien

Area: SMALL BUSINESS/SELF EMPLOYED AREA #14 Lien Unit Phone: (800) 913-6050	Serial Number 339279822	For Use by Recording Office

I certify that the following-named taxpayer, under the requirements of section 6325 of the Internal Revenue Code has satisfied the taxes listed below and all statutory additions. Therefore, the lien provided by Code section 6321 for these taxes and additions has been released. The proper officer in the office where the notice of internal revenue tax lien was filed on December 03 1992, is authorized to note the books to show the release of this lien for these taxes and additions.

001950

Name of Taxpayer TOOTHACRE & PEDERSON A PARTNERSHIP
ROD M TOOTHACRE A PTR
CHARLES PEDERSON A PTR

Residence 4180 LA JOLLA VILLAGE DR STE 400
LA JOLLA, CA 92037

COURT RECORDING INFORMATION:

Liber	Page	UCC No.	Serial No.
n/a	n/a	n/a	920775751

Kind of Tax (a)	Tax Period Ended (b)	Identifying Number (c)	Date of Assessment (d)	Last Day for Refiling (e)	Unpaid Balance of Assessment (f)
941	12/31/1991	95-32[redacted]	03/23/1992	04/22/2002	11951.77
941	03/31/1992	95-32[redacted]	06/15/1992	07/15/2002	10206.88
*****	**************	*****************	**************	************	************

Place of Filing

COUNTY RECORDER
SAN DIEGO COUNTY
SAN DIEGO, CA 92101

Total 22158.65

This notice was prepared and signed at LAGUNA NIGUEL, CA, on this,

the 08th day of August, 2005.

Signature

Title
Director, Payment Compliance

(NOTE: Certificate of officer authorized by law to take acknowledgements is not essential to the validity of Certificate of Release of Federal Tax Lien Rev. Rul. 71-466, 1971 - 2 C.B. 409

Part 2 - Taxpayer's Copy

(8)

Form 668 (Z)
(Rev. 10-2000)

3469

Department of the Treasury - Internal Revenue Service

Certificate of Release of Federal Tax Lien

Area:
SMALL BUSINESS/SELF EMPLOYED AREA #14
Lien Unit Phone: (800) 913-6050

Serial Number
339283064

For Use by Recording Office

I certify that the following-named taxpayer, under the requirements of section 6325 of the Internal Revenue Code has satisfied the taxes listed below and all statutory additions. Therefore, the lien provided by Code section 6321 for these taxes and additions has been released. The proper officer in the office where the notice of internal revenue tax lien was filed on December 17 1992, is authorized to note the books to show the release of this lien for these taxes and additions.

001953

Name of Taxpayer
TOOTHACRE & PEDERSON A PARTNERSHIP
ROD M TOOOTHACRE A PARTNER
CHARLES PEDERSON A PARTNER

Residence
4180 LA JOLLA VILLAGE DR SUITE 400
LA JOLLA, CA 92037

COURT RECORDING INFORMATION:

Liber	Page	UCC No.	Serial No.
n/a	n/a	92268805	n/a

Kind of Tax (a)	Tax Period Ended (b)	Identifying Number (c)	Date of Assessment (d)	Last Day for Refiling (e)	Unpaid Balance of Assessment (f)
941	12/31/1991	95-32[redacted]	09/21/1992	10/21/2002	8869.76

Place of Filing

SECRETARY OF STATE
SACRAMENTO, CA 94235

Total 8869.76

This notice was prepared and signed at LAGUNA NIGUEL, CA, on this,

the 08th day of August, 2005.

Signature

Title
Director, Payment Compliance

(NOTE: Certificate of officer authorized by law to take acknowledgements is not essential to the validity of Certificate of Release of Federal Tax Lien
Rev. Rul. 71-466, 1971 - 2 C.B. 409

Part 2 - Taxpayer's Copy

(5)

EXHIBIT "I"

JOSEPH S. CARMELLINO
ATTORNEY AT LAW

CARMEL VALLEY CENTRE I
11975 EL CAMINO REAL
SUITE 203
SAN DIEGO, CALIFORNIA 92130
TELEPHONE (858) 622-8377
FAX (858) 350-0233
eMail joseph@carmellinolaw.com

February 7, 2006

Ms. A. Martinez, Revenue Officer 33-07811
INTERNAL REVENUE SERVICE
880 Front Street, Room 3293
San Diego, California 92101

Via Fax Only
619.615.3722

Re: Rodney M. Toothacre, SS# 482 32[redacted]

Dear Ms. Martinez:

On December 22, 2005, Mr. Toothacre filed a Request For A Collection Due Process Hearing (Form 12153, with attachments) with your office. To date we have had no response concerning this request.

Please advise this office if a hearing date has been set for the Collection Due Process Hearing, and if a date has been set please notify either me, or Mr. Toothacre of the date, time and place of the hearing. If no date has yet been set, please advise this office when a date may be set, and when we can expect the hearing to occur. A written response to these questions is requested.

Finally, please take notice that Mr. Toothacre intends to arrange at his own expense for a certified court reported to be present at his Collection Due Process Hearing to make a stenographic record of the proceedings.

Sincerely,

Joseph S. Carmellino

JSC:tms
cc: R. M. Toothacre, Esq.

EXHIBIT "J"

SB W

IRS Department of the Treasury
Internal Revenue Service
CINCINNATI, OH 45999-0029

Notice Number: CP 91
Notice Date: DEC. 19, 2005
Social Security Number:
482-32[redacted]

Collection Assistance:
1-800-829-3903
(Asistencia en español disponible)
Caller ID:

RODNEY M TOOTHACRE
13742 INDIAN PEAK TRL
POWAY CA 92064-3056429

Final Notice Before Levy On Social Security Benefits

Our records indicate the federal tax you owe has not been paid, although we have previously advised you of your appeal rights and asked you to pay it. The law allows the IRS to take up to 15% of your Social Security benefits to pay your overdue taxes. **We will proceed with levy action** if you do not pay the full amount you owe, request an appeals hearing, or contact us to resolve the tax matter within 30 days from the date of this notice.

We have identified the following Social Security account information:

Social Security Claim Account Number: 48232[redacted]
Beneficiary's Own Account Number: 48232[redacted]

To avoid this levy action against your Social Security benefits:

If You Can Pay The Amount You Owe In Full:

- Make your check or money order payable to the United States Treasury.
- Write your Social Security Number, the form number(s), and tax period(s) on your payment.
- Send your payment and the attached payment stub to us in the enclosed envelope.

You will find the amount you owe listed on the next page. The amount you owe includes tax, penalties, and interest. Penalty and interest charges, known as statutory additions, are detailed on the following pages and continue to accrue until you pay the total amount in full.

If You Cannot Pay The Amount You Owe In Full:

It is important that you call us immediately at the telephone number listed above. Please be prepared to tell us your monthly income and expenses so we can help you resolve this tax matter. We may be able to set up a payment arrangement. Or, if we determine that you cannot pay any of your tax debt due to a significant hardship, we may temporarily delay collection until your financial condition improves.

Contact Us (Within 30 days from the date of this notice)

Please do not contact the Social Security Administration regarding your federal tax matter. If you have any questions, please call the IRS at the above telephone number or write to us at the address located on the return stub found on the second page of this notice. **We want to help you resolve this matter, so please call us if you need assistance.**

Authorized Representative

If you wish to have someone else contact us to resolve this tax matter, complete Form 2848, *Power of Attorney and Declaration of Representative*, and send it to us in the enclosed envelope. You can get this form at your local IRS office, by calling 1-800-829-3676, or from our website at www.irs.gov. For your information, we have enclosed Publication 4134. This publication provides a list of Low Income Taxpayer Clinics that assist low-income taxpayers for free or for a nominal charge.

Enclosures:
Publication 4134
Copy of this notice
Envelope

ACCOUNT INFORMATION

RODNEY M TOOTHACRE

482-32[redacted]

Form Number	Tax Period	Assessed Balance	Statutory Additions: Paying Late Penalty	Statutory Additions: Interest	Amount You Owe
1040	DEC. 31, 2004	$16,476.45	$945.06	$596.42	$18,017.93

Cut Here

Use this stub to return your request, inquiry or payment.

SB W CP-91

Your Telephone Number:

( ) ____ - ________

Best Time to Call

____ AM ____ PM

482-32[redacted]

Amount you owe: $18,017.93

Less payments not included

Adjusted amount

Internal Revenue Service
CINCINNATI, OH 45999-0029

RODNEY M TOOTHACRE
13742 INDIAN PEAK TRL
POWAY CA 92064-3056429

482326382 UT TOOT 30 0 200412 670 00001801793

EXHIBIT "K"

Internal Revenue Service
880 Front Street
Suite 3293
San Diego, California 92101

Department of the Treasury

Letter Number: 3174 (P)

Letter Date:
March 31, 2006
Social Security or Employer Identification Number
482-32-[redacted]
IRS Employee to Contact:
Mrs. A. Martinez
Employee Identification Number:
33-07811
Contact Telephone Number:
(619) 615-9550

Rodney M Toothacre
13742 Indian Peak Trl
Poway, CA 92064-3056

If full payment is not received by April 10, 2006 a Notice of Federal Tax Lien will be filed for the tax years 2003 and 2004

Although we previously sent you a notice of our intention to collect your unpaid tax through enforced collection, our records show that you still have not paid the amount you owe. Enforced collection may include placing a levy on your bank accounts, wages, receivables, commissions, etc. It could also involve seizing and selling your property, such as real estate, vehicles, or business assets.

To prevent collection action, please pay the amount you owe, now. Make your check or money order payable to the United States Treasury, and write your social security number or employer identification number on it. Send your payment to us in the enclosed envelope with a copy of this letter. **The amount you owe is shown on the next page.**

If you recently paid this or if you can't pay it, call as soon as you get this letter. Our telephone number is at the top of this letter. If you disagree with our taking enforcement action, you may be able to work out another solution. Speak to the person whose name appears at the top of this letter, or ask for that person's manager. If you do not agree with the results, you may fill out Form 9423, Collection Appeals Request, to ask for Appeals consideration.

The unpaid amount from prior notices may include tax, penalties, and interest you still owe. It also includes credits and payments we have received since our last notice to you.

Interest - Internal Revenue Code Section 6601

We charge interest when your tax is not paid on time. Interest is computed from the due date of your return (regardless of extensions) until paid in full or to the date of this notice.

Interest is also charged on penalties assessed on your account. Interest compounds daily except on underpaid estimated taxes for individuals or corporations.

Paying Late - Internal Revenue Code Section 6651(a)(2)

We charge a penalty when your tax is not paid on time. Initially, the penalty is ½% of the unpaid tax for each month or part of a month the tax was not paid.

If you have any questions about your account or would like a further detailed explanation of the penalty and interest charges on your account, please call me at the telephone number shown above.

Sincerely yours,

A. Martinez
Revenue Officer

Number of this letter: 3174
Date of this letter: March 31, 2006
Taxpayer Identification Number: 482-32[redacted]

The amount you owe is:

Form Number	Tax Period	Unpaid Amount from Prior Notices	Additional Penalty	Additional Interest	AMOUNT YOU OWE
1040	12/31/1995	$27,533.65	$2,688.75	$20,944.68	$51,167.08
1040	12/31/1996	$12,684.56	$2,228.73	$9,649.27	$24,562.56
1040	12/31/2003	$17,651.12	$2,659.14	$1,594.16	$21,904.42
1040	12/31/2004	$16,476.45	$1,417.59	$967.07	$18,861.11

Internal Revenue Service
Attn: RO 3105
880 Front Street, Suite 3293
San Diego, CA 92101-8897
ATAT gr

Official Business
Penalty for Private Use, $300

SAN DIEGO CA 921
31 MAR 2006 PM 11 L

Rodney M. Toothaere
13742 Indian Peak Trail
Poway, Ca 92064-3056

92064+3056 C024

Internal Revenue Service
Attn: RO 3105
880 Front Street, Suite 3295
San Diego, CA 92101-8869
ATAT gr

OFFICIAL BUSINESS PENALTY FOR PRIVATE USE, $300

NO POSTAGE NECESSARY IF MAILED IN THE UNITED STATES

BUSINESS REPLY MAIL

FIRST-CLASS MAIL PERMIT NO. 12686 WASHINGTON DC

POSTAGE WILL BE PAID BY IRS

INTERNAL REVENUE SERVICE
880 FRONT STREET SUITE 3295
SAN DIEGO CA 92101-9905

RO 3105 ATAT gr.

EXHIBIT "L"

Rod M. Toothacre SS# 482-32[redacted]
13742 Indian Peak Trail
Poway, California 92064
(858) 513-0217

April 6, 2006

INTERNAL REVENUE SERVICE
Fresno California District
F.O.I.A. REQUEST
ATTN: DISCLOSURE OFFICER
Post Office Box 12866
Fresno, California 93779

CERTIFIED-RETURN RECEIPT REQUESTED #7005-1160-0003-6010-6482

FORWARD AND ADDRESS CORRECTION REQUIRED

FREEDOM OF INFORMATION ACT REQUEST
FOR ACCESS TO RECORDS
(per Title 5, United States Code, section 552.)
ADMINISTRATIVE AND JUDICIAL NOTICE REQUIRED.

Dear Disclosure Officer:

Notice: Because of documented specific prior actions of purported members of this organization, this Request is subject to Title 18, United States Code, Sections 1341 and 1346.

Title 18, United States Code (1999), §§ 1346 reads:

> For the purposes of this chapter, the term "scheme or artifice to defraud" includes a scheme or artifice to deprive another of **the intangible right of honest services.**

You are required to satisfactorily complete this Request and to deliver the Record(s) covered by this Request within twenty (20) business days; your failure to complete and deliver this Request or any portion thereof, and/or a bare *pro forma* denial of this Request, is/are no longer acceptable actions by the IRS.

1. I am the Requestor and my proper name and proper mailing location are indicated at the top of this page.

2. I am making this Request under the provisions of the Freedom of Information Act (5 U.S.C. 552) and 26 C.F.R. 601.702.

3. I declare, under the penalty for perjury in the Law of the United States of America, that so far as I can determine from 26 C.F.R. 601.702(f)(3)(i)(E), I am a bona fide non-commercial (the regulations style it as: "Other") Requester having a legitimate interest in these records.

4. I am requesting this information in order to better understand the operating policies and procedures of your organization. The Freedom of Information Act permits your organization to waive or reduce fees when the release of the information is considered as "primarily benefitting the public." I believe that this Request fits that criterion, so I claim a waiver of any otherwise applicable fees. I promise to pay reasonable fees **not exceeding One Hundred ($100.00) dollars**, for search and duplication/copying services legitimately exceeding the statutory two (2) hours and one hundred (100) pages required to be provided free pursuant 26 C.F.R. 601.702(f)(3)(ii)(E).

5. This request pertains to Record(s) for each of the IRS "tax years":, 1040-1993 and 1040-1994.

6. I Request that the following systems of Record(s) be examined and that I be furnished with a True, complete, accurate and legible copy of each and every Record(s) therein contained pertaining to:

a. The IDENTITY MODULE styled: [482 32[redacted]TOOT]

b. The U.S. INDIVIDUAL styled: RODNEY M. TOOTHACRE

c. Systems of records:

1. Treasury/IRS 24.030, Individual Master File (IMF), MCC TRANSCRIPT-SPECIFIC.

d. System Location(s), as may be applicable:

1. IRS FRESNO DISTRICT OFFICE, FRESNO CA
2. IRS SACRAMENTO/SAN FRANCISCO DISTRICT OFFICE, OAKLAND CA
3. IRS SERVICE CENTER, FRESNO CA
4. IRS SERVICE CENTER, OGDEN UT

e. I temporarily waive, but ultimately Reserve, the Right of actual physical inspection of the Record(s) maintained at each location

7. Please also provide a complete copy of the Collection File for the tax periods 1040-1993, 1040-1994 and 941-12/31/91and 941-12/31/91 and 941/3/31/92. This request includes a copy of all material contained in the case file related to all Collections including but not limited to all documentation received whether relied upon or not, all statements, schedules, daily logs, notes and

memos related to communications and correspondence between the IRS, Collections and other IRS departments and the taxpayer and/or his/their representative, reports (internal or otherwise) prepared in connection with all collection action and transcripts of all data entered into any computer system maintained by the IRS. Please include the following specific documents. (1) Specifically please include the 23C form which you have previously declined to produce claiming the SRA has replaced Form 23C. Certainly Form 23C existed in the early 1990s when these assessments were allegedly made and your IRM, up until at least 2002, required Form 23C to be filled out before the IRS could move forward with attempts to collect. I will accept no substitute for the Form 23C. If no such 23C Form ever existed with respect to these alleged delinquent taxes please so state in writing. (2) Specifically also please provide the Non Master File Assessment Voucher. (3) Specifically please also provide the Notice of Assessment for these alleged delinquent taxes. The IRM provides that "*The Assessment Certificate is the legal document that permits collections activity.*" (4) Specifically please also provide the names of all Assessment Officers appointed by the Director for the tax years of 1040/1993 and 1040/1994.

8. Please also provide most current ICS Complete Transcript (active and archives) beginning with ending dates of last request. Please produce a current printout with the most recent data as of the date of mailing. The ICS Complete Transcript should include the following:

- i. History Information
- ii. IMF/IRAF Entity Detail
- iii. Address Information
- iv. POA Information
- v. Cross Reference Data
- vi. Filing Requirements
- vii. Levy Source Information
- viii. Monthly Income and Expense Analysis – IMF/BMF
- ix. Asset/Seizure Information
- x. Entity Transaction Information
- xi. Balance Due Module summary
- xii. Service Center Status History
- xiii. Master file Status History
- xiv. Display Form 1040 Return Information
- xv. Transaction Information
- xvi. Delinquent Return Module summary
- xvii. Outgoing OI Summary
- xviii. CIP Summary
- xix. Outgoing Pals Work Item Summary

9. I further Request that I be furnished with a current, accurate, and legible copy of, or a readily usable reference to, each and every Treasury/IRS manual, writing, or other document necessary for the average layman to decode and interpret the IMF and the BMF **and** to arrive at the **exact same** interpretation as did the IRS. I will accept the IRS FOIA Electronic Reading Room as an acceptable reference **if, and only if,** an exact and current URL is provided on a one-to-one basis for each Record(s) referenced.

10.a. If any portion(s) of the Record(s) covered by this Request should be unilaterally deemed "exempt from release", you **must** itemize each such Record(s) and disclose the specific claimed authority for such exemption **and** the specific claimed facts which support that purported authority, for **each and every** such claimed exemption.

10.b. I Request that you timely deliver to me, via mail to the mailing location as properly stated at the top of this Request, all Record(s), or portions thereof, which can be reasonably segregated from the purported "exempt" portions.

I Certify, under the penalty for perjury according to the law of the United States of America, that I have read the foregoing document and it is true and accurate.

Very truly yours,

Rod M. Toothacre

Rod M. Toothacre

RMT:tms

cc: Joseph S. Carmellino, Esq.
A. Martinez, INTERNAL REVENUE SERVICE

Rod M. Toothacre SS# 482-32[redacted]
13742 Indian Peak Trail
Poway, California 92064
(858) 513-0217

April 6, 2006

INTERNAL REVENUE SERVICE
Fresno California District
F.O.I.A. REQUEST
ATTN: DISCLOSURE OFFICER
Post Office Box 12866
Fresno, California 93779

CERTIFIED-RETURN RECEIPT REQUESTED #7005-1160-0003-6010-6482

FORWARD AND ADDRESS CORRECTION REQUIRED

FREEDOM OF INFORMATION ACT REQUEST
FOR ACCESS TO RECORDS
(per Title 5, United States Code, section 552.)
ADMINISTRATIVE AND JUDICIAL NOTICE REQUIRED.

Dear Disclosure Officer:

Notice: Because of documented specific prior actions of purported members of this organization, this Request is subject to Title 18, United States Code, Sections 1341 and 1346.

Title 18, United States Code (1999), §§ 1346 reads:

> For the purposes of this chapter, the term "scheme or artifice to defraud" includes a scheme or artifice to deprive another of **the intangible right of honest services.**

You are required to satisfactorily complete this Request and to deliver the Record(s) covered by this Request within twenty (20) business days; your failure to complete and deliver this Request or any portion thereof, and/or a bare *pro forma* denial of this Request, is/are no longer acceptable actions by the IRS.

1. I am the Requestor and my proper name and proper mailing location are indicated at the top of this page.

2. I am making this Request under the provisions of the Freedom of Information Act (5 U.S.C. 552) and 26 C.F.R. 601.702.

INTERNAL REVENUE SERVICE
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3. I declare, under the penalty for perjury in the Law of the United States of America, that so far as I can determine from 26 C.F.R. 601.702(f)(3)(i)(E), I am a bona fide non-commercial (the regulations style it as: "Other") Requester having a legitimate interest in these records.

4. I am requesting this information in order to better understand the operating policies and procedures of your organization. The Freedom of Information Act permits your organization to waive or reduce fees when the release of the information is considered as "primarily benefitting the public." I believe that this Request fits that criterion, so I claim a waiver of any otherwise applicable fees. I promise to pay reasonable fees **not exceeding One Hundred ($100.00) dollars**, for search and duplication/copying services legitimately exceeding the statutory two (2) hours and one hundred (100) pages required to be provided free pursuant 26 C.F.R. 601.702(f)(3)(ii)(E).

5. This request pertains to Record(s) for each of the IRS "tax years":, 1040-1993 and 1040-1994.

6. I Request that the following systems of Record(s) be examined and that I be furnished with a True, complete, accurate and legible copy of each and every Record(s) therein contained pertaining to:

a. The IDENTITY MODULE styled: [482 32[redacted]OOT]

b. The U.S. INDIVIDUAL styled: RODNEY M. TOOTHACRE

c. Systems of records:

1. Treasury/IRS 24.030, Individual Master File (IMF), MCC TRANSCRIPT-SPECIFIC.

d. System Location(s), as may be applicable:

1. IRS FRESNO DISTRICT OFFICE, FRESNO CA
2. IRS SACRAMENTO/SAN FRANCISCO DISTRICT OFFICE, OAKLAND CA
3. IRS SERVICE CENTER, FRESNO CA
4. IRS SERVICE CENTER, OGDEN UT

e. I temporarily waive, but ultimately Reserve, the Right of actual physical inspection of the Record(s) maintained at each location

7. Please also provide a complete copy of the Collection File for the tax periods 1040-1993, 1040-1994 and 941-12/31/91and 941-12/31/91 and 941/3/31/92. This request includes a copy of all material contained in the case file related to all Collections including but not limited to all documentation received whether relied upon or not, all statements, schedules, daily logs, notes and

memos related to communications and correspondence between the IRS, Collections and other IRS departments and the taxpayer and/or his/their representative, reports (internal or otherwise) prepared in connection with all collection action and transcripts of all data entered into any computer system maintained by the IRS. Please include the following specific documents. (1) Specifically please include the 23C form which you have previously declined to produce claiming the SRA has replaced Form 23C. Certainly Form 23C existed in the early 1990s when these assessments were allegedly made and your IRM, up until at least 2002, required Form 23C to be filled out before the IRS could move forward with attempts to collect. I will accept no substitute for the Form 23C. If no such 23C Form ever existed with respect to these alleged delinquent taxes please so state in writing. (2) Specifically also please provide the Non Master File Assessment Voucher. (3) Specifically please also provide the Notice of Assessment for these alleged delinquent taxes. The IRM provides that "*The Assessment Certificate is the legal document that permits collections activity.*" (4) Specifically please also provide the names of all Assessment Officers appointed by the Director for the tax years of 1040/1993 and 1040/1994.

8. Please also provide most current ICS Complete Transcript (active and archives) beginning with ending dates of last request. Please produce a current printout with the most recent data as of the date of mailing. The ICS Complete Transcript should include the following:

i. History Information
ii. IMF/IRAF Entity Detail
iii. Address Information
iv. POA Information
v. Cross Reference Data
vi. Filing Requirements
vii. Levy Source Information
viii. Monthly Income and Expense Analysis – IMF/BMF
ix. Asset/Seizure Information
x. Entity Transaction Information
xi. Balance Due Module summary
xii. Service Center Status History
xiii. Master file Status History
xiv. Display Form 1040 Return Information
xv. Transaction Information
xvi. Delinquent Return Module summary
xvii. Outgoing OI Summary
xviii. CIP Summary
xix. Outgoing Pals Work Item Summary

9. I further Request that I be furnished with a current, accurate, and legible copy of, or a readily usable reference to, each and every Treasury/IRS manual, writing, or other document necessary for the average layman to decode and interpret the IMF and the BMF **and** to arrive at the **exact same** interpretation as did the IRS. I will accept the IRS FOIA Electronic Reading Room as an acceptable reference **if, and only if**, an exact and current URL is provided on a one-to-one basis for each Record(s) referenced.

10.a. If any portion(s) of the Record(s) covered by this Request should be unilaterally deemed "exempt from release", you **must** itemize each such Record(s) and disclose the specific claimed authority for such exemption **and** the specific claimed facts which support that purported authority, for **each and every** such claimed exemption.

10.b. I Request that you timely deliver to me, via mail to the mailing location as properly stated at the top of this Request, all Record(s), or portions thereof, which can be reasonably segregated from the purported "exempt" portions.

I Certify, under the penalty for perjury according to the law of the United States of America, that I have read the foregoing document and it is true and accurate.

Very truly yours,

Rod M. Toothacre

RMT:tms

cc: Joseph S. Carmellino, Esq.
A. Martinez, INTERNAL REVENUE SERVICE

ROD M. TOOTHACRE
13742 Indian Peak Trail
Poway, California 92064
(858) 513-0217

May 16, 2006

Internal Revenue Service-Area Director
Attention: Technical Compliance Officer
Post Office Box 30223, Room 3251
Laguna Niguel, California 92607-0223

CERTIFIED - RETURN RECEIPT REQUESTED 7005 1820 0000 5104 5026

Re: Rod M. Toothacre SS# 482-32[redacted]
Marcia L. Toothacre (Deceased) SS# 546-50[redacted]

AMENDMENT TO NOTICE OF INTENT TO SUE THE UNITED STATES OF AMERICA

Ladies and Gentlemen:

The purpose of this letter is to provide an "AMENDMENT TO" my Notice of Intention to sue the United States of America by adding thereto a demand for a sum certain. My original Notice of Intent to Sue the United States of America was dated April 6, 2006, and mailed to the above address by Certified Mail. I received a telephone call from a Ms. Piazza, ID#33-04735, inquiring as to whether the original notice was intended to be a Notice of Intent To Sue The United States of America.

As indicated at the beginning of the original letter (Notice of Intent to Sue) the primary purpose is to properly serve notice on the United States of America of my intent to sue for all damages incurred, including but not necessarily limited to compensatory damages and general damages for emotional distress. This notice is pursuant to **IRC § 7432**. As noted previously, repeated requests and demands have been made to the IRS to remove the wrongful liens and not only has the IRS failed and refused to remove the illegal liens, it has virtually refused to answer any of the taxpayer's, or his representative's, correspondence. If for any reason this letter fails to meet the requirements of notice to the government, please advise the undersigned.

Internal Revenue Service, Area Director
Re: Rod M. Toothacre SS# 482-32-[redacted]
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DEMAND IS HEREBY MADE FOR THE PAYMENT OF $5,000,000.00 IN DAMAGES.

Again I ask that if for any reason this letter fails to meet the requirements of notice to the government under the FTCA, please advise the undersigned.

As reflected below a copy of this letter is being sent to Ms. A. Martinez, ID Number 33-07811, with the specific direction that it be added to my Collection Due Process Hearing file or files.

Very truly yours

Rod M. Toothacre

Rod M. Toothacre

RMT:jts
Enclosures
cc: Ms. A. Martinez, Internal Revenue Service
Joseph S. Carmellino, Esq.

ROD M. TOOTHACRE
13742 Indian Peak Trail
Poway, California 92064
(858) 513-0217

April 6, 2006

Internal Revenue Service-Area Director
Attention: Technical Compliance Officer
Post Office Box 30223, Room 3251
Laguna Niguel, California 92067-0223

CERTIFIED - RETURN RECEIPT REQUESTED #7005 1820 0000 5104 5095

Re: Rod M. Toothacre SS# 482-32[redacted]
Marcia L. Toothacre (Deceased) SS# 546-50[redacted]

NOTICE OF INTENT TO SUE THE UNITED STATES OF AMERICA

Ladies and Gentlemen:

The purpose of this letter is to provide notice of my intention to sue the United States of America.

26 U.S.C. § 7432. Civil damages for failure to release lien states:

> (a) In general if any officer or employee of the Internal Revenue Service knowingly or by reason of negligence, fails to release a lien under 6325 on property of the taxpayer, such taxpayer may bring a civil action for damages against the United States in a district court of the United States.

26 U.S.C. § 6325. Release of lien or discharge of property provides:

> (a) Release of lien subject to such regulations as the Secretary may prescribe, the Secretary shall issue a certificate of release of any lien imposed with respect to any internal revenue tax not later than 30 days after the day on which - (1) Liability is satisfied or unenforceable The Secretary finds that the liability for the amount assessed, together with all interest in respect thereof, has been fully satisfied or has become legally unenforceable.

The regulations that the Secretary has prescribed are 25 C.F.R. § 301.6325 - Release of lien or discharge of property:

> (a) Release of lien – (1) Liability satisfied or unenforceable. Any district director may issue a certificate of release of a lien imposed with respect to any internal revenue tax, whenever he finds that the entire liability for the tax has...become unenforceable as a matter of law (and not merely uncollectible or unenforceable as a matter of fact).

Internal Revenue Service, Area Director
Re: Rod M. Toothacre SS# 482-3[redacted]
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A review of the history of this fiasco perhaps would be in order.

On **December 12, 2005,** Attorney Joseph S. Carmellino wrote to Ms. A. Martinez, Revenue Officer, advising her that he had been retained by the undersigned to take legal action as necessary to clear the various liens that the IRS was claiming, and to seek compensation for the damages that these wrongful filings had caused his client. A copy of that letter is attached hereto, marked Exhibit "A" and made a part hereof as though set forth at length. That letter pointed out that Ms. A. Martinez had purposefully interfered with a pending refinance escrow by delivering to the escrow holder Notices of Federal taxes due in the total amount of $488,367.37, knowing full well at the time of delivery to escrow by Ms. A. Martinez that some, if not most, of the taxes alleged to be due were uncollectible because the CSEDs had run. Ms. A. Martinez took this action wilfully and with malice. The letter also pointed out that the Notice of Federal Tax Lien for Rodney M. & Marcia L. Toothacre's 1040s for 1993 and 1994 had first been recorded with the San Diego County Recorder's Office on February 4, 1997. It pointed out that those Notices of Federal Tax Liens acted as certificates of release and that the liens were released on June 1, 2005 for tax year 1993 and July 6, 2005 for tax year 1994. In addition to the fact that those liens expired by their own terms, there was also a Certificate of Release of Federal Tax Lien issued by the IRS on August 8, 2005. Ms. A. Martinez maliciously told the escrow officer that the Certificate of Release of Federal Tax Lien was filed in error even though IRC § 63215(f) provides in part as follows:

> Except as provided in paragraphs (2) and (3), if a certificate is issued pursuant to this section by the Secretary and is filed in the same office as the notice of lien to which it relates (if such notice of lien has been filed) such certificate shall have the following effect:
>
> (A) in the case of a certificate of release, such certificate shall be ***conclusive*** that the lien referred to in such certificate is extinguished; (emphasis added)

Mr. Carmellino's letter to Ms. A. Martinez demanded that she take the necessary steps to remedy the 1993 and 1994 tax liens, pointing out that it was crucial that his client's refinance escrow close immediately, stating that "Mr. Toothacre is willing to pay only the following tax years out of the escrow", identifying 1040s for 1995, 1996, 2003, 2004 and 941 for 1996.

On **December 13, 2005,** Mr. Carmellino wrote a follow up letter to Ms. A. Martinez advising her that he had been furnished a document entitled, **490 Activity Summary - 483-32[redacted] TOOT,** which reflected that payments which were being levied out of my Social Security benefits were being applied to 1040 Tax Period 1993/12. It reiterated that the CSED had run on that year and that the benefits being levied should at least be applied to a collectible tax year. That document also establishes that the taxes for 1040 1993 were assessed on **April 4, 1994.** Ms. A. Martinez denies that this document is an IRS document even though it was obtained from the Internal Revenue Service. A copy of Mr. Carmellino's **December 13, 2005** letter is attached hereto, marked Exhibit **"B"** and made a part hereof as though set forth at length

On **December 20, 2005,** Mr. Carmellino wrote Ms. A. Martinez a letter proposing a compromise so that my refinance escrow could close with no further damage being caused by the IRS. We agreed to pay 1995, 1996, 2003 and 2004 1040 taxes and the 1996 941 taxes out of the escrow. We further, at that time, agreed to hold an additional sum of $100,000.00 in an independent trust account pending resolutions of the disputes over the collectability of the taxes we disputed. We also advised her of our intention to appeal the filing of **that particular lien**. A copy of Mr. Carmellino's **December 20, 2005,** letter is attached hereto, marked Exhibit **"C"** and made a part hereof as though set forth at length.

On **December 22, 2005,** the undersigned prepared a Request for a Collection Due Process Hearing. That Request was sent by Certified Mail, Return Receipt Requested to the Internal Revenue Service on **December 22, 2005,** and the return receipt was dated and signed on **December 23, 2005.** A true and correct copy of that receipt is attached hereto, marked Exhibit **"D"** and made a part hereof as though set forth at length.

The Request for the Collection Due Process Hearing had attached to it various exhibits marked with numbers and a legal brief setting forth the taxpayer contentions. Those contentions were:

THE SUBJECT TAXES WERE DISCHARGED BY BANKRUPTCY
THE NOTICE OF FEDERAL TAX LIEN EXPIRED BY ITS OWN TERMS
THE INTERNAL REVENUE SERVICE RELEASED THE LIENS
THE IRS' ATTEMPT TO REFILE LIENS FAILS
THE STATUTE OF LIMITATIONS HAS RUN
THE INTERNAL REVENUE SERVICE HAS ACTED WITH MALICE

A true and correct copy of the Request for a Collection Due Process Hearing is attached hereto, marked Exhibit **"E"**, along with all of the exhibits, marked 1 through 6, and made a part hereof by this reference as though set forth at length.

On **January 2, 2006,** Mr. Carmellino wrote to Ms. A. Martinez, acknowledging a phone message left by her on his phone on **December 22, 2005,** advising Mr. Carmellino that she would return to her office on **January 3, 2006**, after her Christmas break. He commented that in that phone message she had said that Mr. Toothacre's offer to pay taxes did not even cover all of the taxes due. Mr. Carmellino pointed out that the offer was an offer to pay, **in full** all, taxes, interest and penalties which we believed were collectible by the IRS. That offer was renewed with the qualification that the offer no longer contemplated the withholding of $100,000.00. That letter also advised Ms. A. Martinez that if Mr. Toothacre's escrow did not close, that it was our intention to avail ourselves of the remedies provided by IRC 7433. Mr. Carmellino also advised Ms. A. Martinez that his client had "now received from the IRS a Final Notice Before Levy on Social Security Benefits." This Notice of Levy states that it is an attempt to collect 1040 taxes for tax year 2004. Mr. Carmellino informed Ms. A. Martinez that Mr. Toothacre acknowledges those taxes were due and owing. Mr. Carmellino reminded Ms. A. Martinez that the IRS was already levying on Mr. Toothacre's Social Security Benefits and applying them to tax year 1993, and demanded that the IRS reverse those collections and apply them to tax year 2004. Mr. Carmellino's letter to Ms. A. Martinez also pointed out that the efforts by the IRS to renew the lien for the 1993 taxes had not followed the procedures set forth in the Internal Revenue Code, citing Section 6325 (f) (2), 6325 (f) (2) (A) and 6325 (f) (2) (B). A true and correct copy of Mr. Carmellino's letter dated **January 3, 2006,** marked Exhibit **"F"**, is attached hereto and made a part hereof by this reference as if set forth at length..

On **January 18, 2006,** Mr. Carmellino wrote a letter to Ms. A. Martinez and asked that the letter be appended to his client's appeal, previously filed through her office. That letter, among other things, stated: ***"Once again demand is made that the internal revenue service release the purported notice of federal tax liens for the years 1040 93, and 1040 94 filed on December 2, 2005. This is an opportunity for the Government to mitigate the damages being incurred by Mr. Toothacre."*** That letter went on to discuss at length the Internal Revenue Manual concerning the CQMS providing that the Taxpayer is entitled to fair and courteous treatment. Mr. Carmellino reminded Ms. A. Martinez that she had indicated to him that the filing of a bankruptcy caused six months to be tacked on at the end of the 10-year period but he reminded her also that she surely must have been aware that this had not been true since the Supreme Court of the United States decided *Young v. United States, 122 S.Ct. 1036* and the issuance of Notice CC-2002-023 by the Office of Chief Counsel of the Internal Revenue Service. He advised her that *"it is now settled law that a bankruptcy may toll the collection statute of limitations for the full period of the bankruptcy, but for no additional period."* Mr. Carmellino's letter also discussed the effect of R.R.A. §3461 and IRC §§ 6501(c) and 6502(a). He pointed out that ***"Any extension of the collections statute already in effect on December 31, 1999, expired on December 31, 2002."*** Mr. Carmellino pointed out that the literature makes it clear that the IRS not uncommonly tries to collect taxes after the statute of limitations has expired, and that this abuse was addressed by Congress in part as noted in his letter. The final paragraph of Mr. Carmellino's letter reads as follows.

> The Internal Revenue Manual Section 5.12.6.5.1 (10-01-2003) Certificate of Release provides at number 7. ***Issue a certificate of release if the collection statute has expired, and the taxpayer requests a release.*** (Emphasis added) If it has not previously been made clear, Mr. Toothacre does hereby request that certificates of release be issued immediately for tax years 1040 93 and 1040 94.

Internal Revenue Service, Area Director
Re: Rod M. Toothacre SS# 482-32-[redacted]
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A true and correct copy of Mr. Carmellino's letter of **January 18, 2005,** is attached hereto, marked Exhibit "G" and made a part hereof by this reference as if set forth at length.

On **January 19, 2006,** Mr. Carmellino wrote a letter to Ms. A. Martinez, in which he advised her that in reviewing The Daily Transcript he discovered that, on **December 21, 2005,** the IRS caused to be recorded two Notices of Federal Tax Liens against Toothacre & Pedestrian. (Sic) Neither Mr. Pederson nor Mr. Toothacre received any notice whatsoever of this action by the IRS. Ms. A. Martinez had previously been furnished with the Certificates of Release of Federal Tax Liens by Mr. Toothacre. The last day for filing either of those documents was in 1992. His letter stated: ***"It is patently obvious that the refiling of these liens is malicious and an obvious attempt by the Service to bully my client and destroy his life. All of this in violation of your own Manual and the Taxpayer Bill of Rights. Mr. Toothacre is trying to pay those taxes which are due, and collectible, and you are making every effort to thwart his attempts."***

DEMAND IS HEREBY MADE THAT THESE LIENS BE IMMEDIATELY RELEASED

A copy of Mr. Carmellino's **January 19, 2005** letter, together with its attachments, is attached hereto marked Exhibit "H" and by this reference made a part hereof as though set forth at length.

On **February 7, 2006,** Mr. Carmellino wrote a letter to Ms. A. Martinez advising her that on **December 22, 2005,** Mr. Toothacre had filed a Request For A Collection Due Process Hearing (Form 12153) with her office and that to the date of the letter he had received no response concerning this request. He asked if a hearing date had been set for the Hearing and if so to please notify either him or Mr. Toothacre. He specifically requested a written response to those questions. Mr. Carmellino also advised Ms. A. Martinez that Mr. Toothacre intended to arrange, at his own expense, for a Certified Court Reported to be present at his Collection Due Process Hearing to make a stenographic record of those proceedings. Mr. Carmellino has received no written reply to those questions. Mr. Carmellino's letter of **February 7, 2006** is attached hereto, marked Exhibit "I" and made a part hereof by this reference as though set forth at length.

On or about **December 20, 2005,** the undersigned received by certified mail from the Internal Revenue Service in Cincinnati, Ohio a Final Notice Before Levy On Social Security Benefits. The IRS as indicated above had already been levying on my Social Security Benefits and applying those payments to tax year 1993, which had become unenforceable. We requested that, at least, the funds levied from my Social Security be applied to tax year 2004. A copy of the Final Notice Before Levy On Social Security Benefits, together with the attached Account Information indicating tax year 1040 for 2004, is attached hereto marked Exhibit "J" and made a part hereof by this reference as though set forth at length.

The most recent activity taken by Ms. A. Martinez is a letter dated **March 31, 2006,** advising that if full payment is not received for the payment of taxes reflected on an attached sheet by **April 10, 2006,** that a Notice of Federal Tax Lien will be filed for the tax years 2003 and 2004. The taxes listed on the attachment are the very taxes that I wanted to pay out of the proceeds of the refinance escrow, offers which Ms. A. Martinez completely ignored for months. It is interesting to note that this letter is not computer generated. A true and correct copy of Ms. A. Martinez' letter of **March 31, 2006,** together with its envelopes and attachment are attached hereto, marked Exhibit **"K"** and made a part hereof by this reference as though set forth at length.

To date, without much success, we have filed two requests for documents under the Freedom of Information Act. In response to our first request we did receive, among other things, the IMF relating to my tax account. We have retained the services of a forensic accountant to assist us in decoding the IMF along with various documents. In response to our second request we were told that the Form 23C has been replaced. In any event we are in the process of filing our third FOIA request and for your information a copy of that request is attached hereto marked Exhibit **"L"** and made a part hereof by this reference as though set forth at length.

As indicated at the beginning of this letter the primary purpose is to properly serve notice on the United States of America of my intent to sue for all damages incurred, including but not necessarily limited to compensatory damages and general damages for emotional distress. This notice is pursuant to IRC § 7432. As noted above, repeated requests and demands have been made to the IRS to remove the wrongful liens and not only has the IRS failed and refused to remove the illegal liens, it has virtually refused to answer any of the taxpayer's, or his representative's, correspondence at all. We are still waiting for acknowledgment of the filing of our Request for CDP hearing. If for any reason this letter fails to meet the requirements of notice to the government, please advise the undersigned.

As reflected below a copy of this letter is being sent to Ms. A. Martinez, ID Number 33-07811, with the specific direction that it be added to my Collection Due Process Hearing file or files.

Very truly yours

Rod M. Toothacre

RMT:jts
Enclosures
cc: Ms. A. Martinez, Internal Revenue Service
Joseph S. Carmellino, Esq.